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VOLUME I.

APPENDIX

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

NO. 949

RUBEN K. KING, Et Al., *Appellants*,

v.

MRS. SYLVESTER SMITH, Et Al., *Appellees*.

On Appeal From the United States District Court
For the Middle District of Alabama,
Northern Division

St. Louis Law Printing Co., Inc., 411-15 N. Eighth St., 63101. CEntral 1-4477.

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APPENDIX.

In the United States District Court for the Middle District of Alabama, Northern Division.

Mrs. Sylvester Smith, Individually and on Behalf of Her Minor Children, Ida Elizabeth Smith, Ernestine Smith, Willie Louis Smith and Willie James Smith and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated, Plaintiffs,

vs.

Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama; Lurleen Burns Wallace, Chairman, State Board of Pensions and Security, State of Alabama; James Record, Mrs. Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, Mrs. Mary Ella Reavis, Members of the State Board of Pensions and Security, State of Alabama; Mrs. Clinton S. Wilkinson, Sr., Director, Dallas County Department of Pensions and Security, Individually and in Their Official Capacities, Defendants.

Civil Action. No. 2495-N.

RELEVANT DOCKET ENTRIES.

1966

Dec. 2—Complaint filed.

Dec. 16—Plaintiffs' motion for preliminary injunction filed.

Dec. 22—Defendants' motion to dismiss filed.

1967

Jan. 4—Order appointing U. S. as amicus curiae and party.

Jan. 23—Defendants' answer filed.

Nov. 8—Writ of injunction issued.

Nov. 8—Opinion of three-judge court.

Nov. 8—Decree of three-judge court.

Nov. 29—Order of Associate Justice of the Supreme Court, Hugo L. Black, granting stay, filed.

In the
United States District Court for the
Middle District of Alabama, Northern Division.

Mrs. Sylvester Smith, Individually and on Behalf of Her Minor Children, Ida Elizabeth Smith, Ernestine Smith, Willie Louis Smith and Willie James Smith and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated, Plaintiffs,

versus

Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama; George Wallace, Chairman, State Board of Pensions and Security, State of Alabama; James Record, Mrs. Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, Mrs. Mary Ella Reaves, Members of the State Board of Pensions and Security, State of Alabama; Mrs. Clinton S. Wilkinson, Sr., Director, Dallas County Department of Pensions and Security; Individually and in Their Official Capacities,
Defendants.

Civil Action.
No. 2495-N.

COMPLAINT

(for declaratory judgment and injunctive relief).

(Filed Dec. 2, 1966.)

I.

1. This is a suit for injunctive relief authorized by Title 42, U.S.C., §1983 to be commenced by any citizen

of the United States or other persons within the jurisdiction thereof to redress the deprivation under color of statute, ordinance, regulation, custom or usage of the state of rights, privileges and immunities secured by the Constitution and the laws of the United States. The rights, privileges and immunities sought herein to be redressed are those secured by the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States, by the Social Security Act, 42 U.S.C., §§601-609, and by §601 of the Civil Rights Act of 1964. This is also a suit for a declaratory judgment pursuant to Title 28, U.S.C., §2201 of rights established by the aforementioned constitutional and statutory provisions.

2. This is a proper case for determination by a three-judge court pursuant to 28 U.S.C., 2281 since it seeks an injunction to restrain the Defendant officers of the State of Alabama from the enforcement, operation and execution of the state-wide regulation set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section V (A) (entitled "Child ineligible if There is a Father or Mother Substitute"), and commonly referred to as the "substitute father" regulation (a copy of which is attached hereto as Exhibit A), on the ground of the unconstitutionality of said regulation under the Constitution of the United States.

3. Jurisdiction is conferred on this Court by 28 U.S.C., §1343 (3) and (4) providing for original jurisdiction of this Court in suits authorized by 42 U.S.C., §1983; jurisdiction is further conferred on this Court by 28 U.S.C., §§2201 and 2202 relating to declaratory judgments and by 28 U.S.C., §§2281 and 2284 providing for a three-judge Court.

4. Plaintiff Sylvester Smith is an adult Negro citizen of the United States and Alabama and is the mother of

Plaintiff children, Ida Elizabeth Smith, age fourteen years; Ernestine Smith, age twelve years; Willie Louis Smith, age eleven years; Willie James Smith, age nine years. For several years prior to October 1, 1966, Plaintiff and her children had been recipients of financial assistance under the Aid to Dependent Children program (hereafter referred to as ADC) of the State of Alabama, a public assistance program authorized by Code of Alabama, Title 49, §17 and Title 42, U.S.C., §§601-609. By notice dated October 11, 1966, Plaintiff Smith and her children were removed retroactive to September 30, 1966 from the list of persons eligible to receive aid, on the ground of the "substitute father" regulation. A copy of said notice is attached hereto as Exhibit B. A few weeks prior to her termination from ADC, Plaintiff Smith had sent a letter to President Johnson complaining of the inadequate size of her welfare grant and of other Alabama welfare policies. Through an aide, the President forwarded the letter to responsible welfare officials.

5. Plaintiffs bring this action on their behalf and on behalf of all the other persons similarly situated pursuant to Rule 23 (a) and (b) (2) of the Federal Rules of Civil Procedure. The members of the class similarly situated are needy Negro mothers and dependent Negro children in the State of Alabama otherwise eligible for ADC in Alabama whose ADC financial assistance has been terminated or denied on the ground of the aforementioned "substitute father" regulation. The members of this class are so numerous as to make joinder impractical; there are questions of law and fact common to the class; the claims of the representative parties are typical of the claims of the class; and the representative parties fairly and adequately protect the interests of the class.

6. Defendant George Wallace is Chairman of the State Board of Pensions and Security and Defendants James

Record, Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, and Mary Ella Reavis are other members of said Board. Under Code of Alabama, Title 49, §17 (5a and 38) they are responsible, in conference with the Commissioner of the State Department of Pensions and Security, for the adoption of the policies, rules and regulations of the State Department of Pensions and Security, including the "substitute father" regulation here complained of.

Defendant Ruben K. King is Commissioner of the State Department of Pensions and Security and, as noted directly above, has statutory responsibility for the adoption of the regulations here complained of. Defendant King is also responsible, under Code of Alabama, Title 49, §17 (5a and 37), for all executive and administrative duties of said State Department and for interpreting the regulation formulated by the State Board of Pensions and Security.

Defendant (Mrs.) Clinton S. Wilkinson Sr., Director of the Dallas County Department of Pensions and Security, is responsible, under the Terms of Code of Alabama, Title 49, §17 (9 and 39), for enforcing the regulations of the State Department of Pensions and Security in the County of Dallas.

7. (a) At all times hereafter mentioned, Defendants Wallace, Record, Clarke, Waite, Coley, Whiddon, Reavis and King (and their predecessors in office), in order to receive federal funds for the ADC program of the State of Alabama, have been required by the provisions of 42 U.S.C., §§601-609 to have formulated a "state plan" for ADC consistent with the provisions of the Constitution of the United States and the provisions of 42 U.S.C., §601 et seq.

(b) Said Defendants are also, under the terms of Code of Alabama, Title 49, §17(7), required to "act as the

agent of the federal government . . . in the administration of any federal funds granted to the state to aid in the furtherance of any of the functions of the state department . . .," and to otherwise act as the agents of the federal government in the furtherance of the objectives of the ADC program.

(c) Federal funds, granted under the provisions of 42 U.S.C., §601 et seq., constitute the major share of ADC grants in the state of Alabama.

(d) Under the terms of Code of Alabama, Title 49, Section 17 (14), defendants are required to grant ADC financial assistance

> "on behalf of any needy child who is a dependent as defined in the Federal Social Security Act or amendments thereto who shall comply with the applicable requirements of this chapter, and who: (a) Has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; (b) who meets any one of the following residence requirements—(1) has resided within the state for one year immediately preceding the application for aid, or (2) was born within the state within one year immediately preceding the application for aid; or whose parent or other near relative (as defined in the Federal Social Security Act) with whom the child is living has resided in the state for one year immediately preceding the birth of said child; (c) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefits of this chapter; and (d) is not receiving any other type of public assistance for which federal matching is available.

Under the terms of 42 U.S.C., §606 (a) a "dependent child" means:

"a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary), a student regularly attending a school, college, or university, its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;"

8. (a) In all respects, except for the "substitute father" regulation promulgated and enforced by Defendants, Plaintiffs and the members of their class are eligible for and entitled to ADC financial assistance.

(b) Plaintiff children Ida, Ernestine and Willie Louis, have not received parental support or care from their father, who has been dead since 1955. Plaintiff child Willie James has not received parental support or care from his father, who has been continuously absent for many years. All the children are living in the home of their mother, Plaintiff Sylvester Smith, and all are under the age of eighteen, are Alabama residents for more than one year, are not receiving any other type of public assistance, and have not directly or indirectly disposed of property for the purpose of qualifying for ADC assistance. The sole income of Plaintiff Smith and her children is in the sum of sixteen dollars ($16) per week paid to Plaintiff Smith for working as a waitress six days a week from 3:00 a. m. to 12:30 p. m. Said income is below the financial standards promulgated by Defendants as

necessary for a subsistence compatible with decency and health.

9. (a) According to information give to Plaintiff Smith by one Mrs. Stancil, an employee agent of Defendants and "counselor" of Defendants for Plaintiff Smith, the "substitute father" of the Smith children is one Mr. Willie E. Williams. Plaintiff Smith was told by Mrs. Stancil on or about October 11, 1966, that she and her children were no longer eligible for ADC aid because Mr. Williams was the "substitute father" and that Mrs. Smith should look to Mr. Williams for support. Thereafter, by notice dated October 11, 1966 and signed by Defendant Wilkinson, Plaintiffs' ADC aid was terminated on the ground of the "substitute father" regulation. (See Exhibit B attached hereto.)

(b) Mr. Willie E. Williams has nine children of his own; he lives with his family, including his wife and eight of their nine children who are dependent upon him for support. He earns barely enough for the support of his own children through work as a heavy laborer. Mr. Williams is not now, nor was he at the time of the termination of Plaintiff Smith's ADC benefits, willing or able to support the Smith family. Mr. Williams is the father of none of the children of Plaintiff Smith.

(c) Mr. Williams has known Plaintiff Smith virtually all of her life; in the last five years, he has visited her home with some frequency. He does not live in her home. Plaintiff Sylvester Smith is not willing to discuss whether she engages in a sexual relationship with Mr. Williams.

10. Upon information and belief, the Defendants have applied their "substitute parent" regulations so as to disqualify from ADC benefits only or virtually only Negro mothers and children and not white mothers and children.

11. By promulgating, adopting and enforcing the "substitute father" regulation, and on ground of said regulation terminating and denying ADC financial assistance to Plaintiff Smith, her minor children, and all other members of her class, Defendants acting under color of State law, have unlawfully deprived Plaintiff Smith and the other members of her class of ADC financial assistance, and their constitutional rights to equal protection and due process of law, and their rights under 42 U.S.C., §§601-609 and Code of Alabama, Title 49, §17, in the following manner;

A. Defendants have deprived Plaintiff's needy and dependent children, and the needy and dependent children of all others similarly situated, of the equal protection of the ADC law by classifying them as ineligible for ADC on a thoroughly arbitrary and irrational basis, i.e., the alleged sexual relation of their mother with a man who is not their father, who owes no duty of support, is giving no support, who is not married to their mother and who is not living with them.

B. Defendants have deprived Plaintiff's needy and dependent children, and the needy and dependent children of all others similarly situated, of due process of law in that Defendants have denied them needed ADC benefits to which they are otherwise entitled by arbitrarily imposing the label "substitute father" on persons who are not their fathers, owe no duty of fatherhood to them, and are performing no duty of fathers to them.

C. Defendants have deprived Plaintiff's needy and dependent children, and the needy and dependent children of all others similarly situated, of due process of law in that Defendants have denied them needed ADC benefits on the basis of a vague and uncertain regulation which enables Defendants to pick and choose on an arbitrary and whimsical basis, those to whom ADC benefits shall

be granted. The vagueness of the regulation permits Defendants to terminate aid, if they choose, in the event a recipient complains to federal authorities of their other policies, as Plaintiff Smith did.

D. Defendants have deprived Plaintiff's needy and dependent children, and the needy and dependent children of all others similarly situated of the equal protection of the laws in that the Defendants have applied the "substitute father" regulation in such a manner as to disqualify Negro applicants and recipients but not white applicants and recipients.

E. Defendants have deprived Plaintiff Smith and other mothers similarly situated of their right to privacy under the due process clause of the Fourteenth Amendment by, *inter alia,* placing upon Plaintiff Smith and other mothers, under the terms of the "substitute father" regulation, the burden of proving that they are not engaging in a sexual relation with a man through such means as "references" from their "ministers, neighbors, grocers".

F. Defendants, through the "substitute father" regulation, have deprived the needy dependent children of Plaintiff Smith and other mothers similarly situated of the ADC benefits to which they are clearly entitled under the express provisions of 42 U.S.C., §§601-609 and Code of Alabama, Title 49, §17.

12. Plaintiffs and the class which they represent have suffered damage to their health and well-being, the health and well-being of their children and their family life, and will continue to suffer severe and irreparable injury because of the aforesaid regulation complained of herein until said regulation is declared illegal and unconstitutional and is enjoined by this Court. No adequate administrative remedy or adequate remedy at law is available to plaintiffs.

Wherefore, plaintiffs on behalf of themselves and all others similarly situated respectfully pray:

1. That a three-judge Court be convened to determine this controversy pursuant to 28 U.S.C., §2281;

2. That this Court enter a declaratory judgment pursuant to 28 U.S.C., §2201, declaring "the substitute father" regulation of the Alabama State Board of Pensions and Security, specifically Part I, Chapter II, Subdivision V (A) of the Alabama Manual of Public Assistance Administration, void and of no effect insofar as it denies eligibility to Plaintiffs and members of their class on the ground that they have a "substitute father" as therein defined; and further declaring that said regulation is contrary to the intent of Congress in enacting the Aid for Families of Dependent Children provisions of the Social Security Act (42 U.S.C., §§601-609) and the intent of the legislature of Alabama in enacting the Aid to Dependent Children program in the Code of Alabama, Title 49, Section 17; and further declaring that said regulation is repugnant to the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States; and further declaring that Defendants are required to consider the eligibility for Aid to Dependent Children of Plaintiffs and all others similarly situated without reference to said "substitute father" regulation.

3. That this Court enter a permanent injunction restraining each defendant, their successors in office, agents and employees from enforcing the "substitute father" regulation contained in Part I, Chapter 2, Sub-Division V(A) of the Manual of Public Assistance Administration, and ordering them to consider eligibility for Aid to Dependent Children of Plaintiffs and all others similarly situated without regard to said regulation, on the ground that said regulation violates the intent of Congress in en-

acting the Aid to Dependent Children program contained in 42 U.S.C. §§601-609, in intent of the legislature of Alabama in enacting Title 49, §17 of the Code of Alabama, and on the ground that said regulation is repugnant to the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States.

4. That pending the final determination by this Court of this suit, this Court enter a preliminary injunction restoring Plaintiff Smith and her minor children to the Aid to Dependent Children program of the State of Alabama and restraining Defendants from denying eligibility to all others similarly situated on the ground of the aforesaid "substitute father" regulation.

5. That this Court allow Plaintiffs their costs herein and grant them and all others similarly situated such further, other, additional or alternative relief as may appear to this Court just and appropriate.

Respectfully submitted,

/s/ DONALD A. JELINEK,
DONALD A. JELINEK,
Lawyers Constitutional Defense Committee,
31½ Franklin Street,
Selma, Alabama 36701,
ALVIN J. BRONSTEIN,
Lawyers Constitutional Defense Committee,
603 North Farish Street,
Jackson, Mississippi 39202,
Attorneys for Plaintiffs.

EDWARD V. SPARER,
HOWARD THORKELSON,
409 West 117th Street,
New York, New York 10027,
Of Counsel.

Verification.

State of Alabama,
County of Dallas.

I, Sylvester Smith, of lawful age, first duly sworn upon oath, depose and say:

That I am the Plaintiff in the action herein;

That I have read the annexed Complaint and know the contents thereof; and

That the matters set out in said Complaint are true and correct as therein stated to the best of my knowledge, information and belief.

/s/ SYLVESTER SMITH,
SYLVESTER SMITH,
1544 Curtis Street,
Selma, Alabama.

Sworn to and subscribed before me this 23rd day of November, 1966.

JAMES C. KIMBROUGH,
Notary Public.

My Commission expires: March 3, 1968.

Exhibit A—The "Substitute Father" Regulation.

Pt. I, Ch. II, Subd. V (A) of the Alabama Manual of Public Assistance Administration:

V. *Child Ineligible If There Is a Father or Mother Substitute.*

A. *Father Substitute*: An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother living in her home, whether they are his or not, if:

(1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of

proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately.

Exhibit B.

Dallas County Department of Pensions and Security
Selma, Alabama

Termination of Award

Name: Sylvester Smith C.N.: 22,929

Address: 1544 Curtain Street Program: ADC
Selma, Alabama

You have been removed from the list of persons eligible to receive aid effective September 30, 1966 because:

Substitute father policy.

If you want other information from the county department, we shall be glad to talk with you.

10-11-66
Date

Approved:
(Illegible), Director

• • • • • • •

MOTION FOR A PRELIMINARY INJUNCTION.

(Caption Omitted.)

(Filed Dec. 16, 1966.)

Please take notice that upon the Complaint herein, Plaintiffs will move the *three-judge Court* to be convened in this case at a date and time to be determined by the Court for an Order granting Plaintiffs a Preliminary Injunction

> restoring Plaintiff SMITH and her minor children to the Aid to Dependent Children program of the State of Alabama and restraining Defendants from denying eligibility to all others similarly situated on the ground of the aforesaid "substitute father" regulation,

and for such other and further relief as may seem just and proper.

Dated: December 16, 1966.

/s/ CHARLES S. CONLEY,
315 South Bainbridge Street,
Montgomery, Alabama,
DONALD A. JELINEK,
Lawyers Constitutional Defense
Committee,
31½ Franklin Street,
Selma, Albama,
ALVIN J. BRONSTEIN,
Lawyers Constitutional Defense
Committee,
603 North Farish Street,
Jackson, Mississippi,
Attorneys for Plaintiffs.

Certificate of Service.

I hereby certify that on the 16th day of December, 1966, a copy of the foregoing Motion for a Preliminary Injunction was mailed to each of the following Defendants: Ruben K. King, Commissioner of the State Department of Pensions and Security; George Wallace, Chairman of the State Board of Pensions and Security; James Record, Mrs. Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, Mrs. Mary Ella Reavis, Members of the State Board of Pensions and Security; and Mrs. Clinton S. Wilkinson, Sr., Director of the Dallas County Department of Pensions and Security.

/s/ CHARLES S. CONLEY,
CHARLES S. CONLEY,
315 South Bainbridge Street,
Montgomery, Alabama,
Attorney for Plaintiffs.

* * * * * * * *

MOTION TO DISMISS.

(Caption Omitted.)

(Filed Dec. 22, 1966.)

Defendants, separately and severally, move the Court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendants upon which relief can be granted;

2. To dismiss the action on the ground that the plaintiffs have failed to join indispensable parties. The Secretary of the Department of Health, Education, and Welfare and the Commissioner of Welfare of the Department of Health, Education, and Welfare have not been named as defendants. They are the officials of the United States

government who have authority for the promulgation of rules and regulations pursuant to the public assistance titles of the Social Security Act under which the State of Alabama has developed its statutory authority and rules and regulations to provide for public assistance in Alabama.

/s/ RICHMOND M. FLOWERS,
RICHMOND M. FLOWERS,
Attorney General,

/s/ MARY LEE STAPP,
MRS. MARY LEE STAPP,
Assistant Attorney General,

/s/ CAROL F. MILLER,
MRS. CAROL F. MILLER,
Assistant Attorney General,

Attorneys for Defendants,
Administrative Building,
64 North Union Street,
Montgomery, Alabama.

Certificate of Mailing.

Montgomery, Alabama,
December 22, 1966.

I hereby certify that on December 22, 1966, I served a copy of the foregoing Motion upon Honorable Charles S. Conley, 530 South Union Street, Montgomery, Alabama, Attorney for plaintiffs, by depositing a copy thereof in the United States mail, postage prepaid, envelope addressed to said attorney at his address set forth hereinabove, which address is the last address of the attorney known to me.

CAROL F. MILLER,
Attorney for Defendants.

* * * * * * * *

ORDER APPOINTING AND DESIGNATING THE UNITED STATES AS AMICUS CURIAE AND AS PARTY.

(Caption omitted.)

(Filed Jan. 4, 1967.)

Upon consideration of the complaint in the above-styled case and the relief sought, it appears that the issues involved are common and general, and this Court is of the opinion that the due and proper administration of justice requires that the public interests should be represented in these proceedings. To this end, this Court is of the opinion that it is now appropriate and necessary that the United States should be designated to appear and participate in all proceedings in this action before this Court and to accord this Court the benefit of its views and recommendations, with the right to submit pleadings, evidence, arguments, briefs, and to participate actively as a party in every phase of said proceedings, including the right to initiate such further proceedings that may be necessary and appropriate. *Faubus v. United States* (8th Cir. 1958), 254 F. 2d 797, cert. denied 358 U.S. 829; *Bush, et al. v. Orleans Parish School Board, et al.*, 188 F. Supp. 916, aff'd 365 U.S. 569; *Bush, et al. v. Orleans Parish School Board, et al.*, 190 F. Supp. 861, aff'd 366 U.S. 212; *United States v. Barnett* (5th Cir. 1962), 330 F. 2d 369; *Lee v. Macon County Board of Education*, 231 F. Supp. 743 (1963); *Miles, et al. v. Dickson, et al.*, Civil Action No. 2326-N, MD Ala., June 15, 1966, ... F. Supp. ...; *Alabama NAACP State Conference of Branches, et al. v. George C. Wallace, et al.*, Civil Action No. 2457-N, MD Ala.

In accordance with the foregoing and for good cause, it is the Order, Judgment and Decree of this Court that the United States of America be and is hereby designated to appear and participate in all proceedings in this action

before this Court as amicus curiae and as a party thereto. It is the further Order of this Court that the Attorney General of the United States, and such attorneys in the United States Department of Justice as he may designate, be and he is hereby appointed to appear and participate in behalf of the United States in this action.

Done, this the 4th day of January, 1967.

FRANK W. JOHNSON, JR.,
Chief Judge.

* * * * * * *

ANSWER.

(Caption omitted:)

(Filed Jan. 23, 1967.)

I.

The complaint fails to state a claim against defendants or any of them upon which relief can be granted.

II.

Plaintiffs have failed to exhaust their available administrative remedies. The administrative remedies which are available to plaintiffs are provided for in Title 49, §17(18), Code of Alabama 1940, recompiled 1958, and the rules and regulations of the State Department of Pensions and Security promulgated thereunder and set out in Manual for Administration of Public Assistance, Part I, pages I-3, V-4-9, and Administrative Letter No. 2103 dated January 24, 1966. Copies of these rules and regulations are attached hereto and made a part hereof as Exhibit A.

III.

1. In answer to Paragraph 1 of the complaint, defendants state that the complaint as a whole does not establish

a right in the plaintiff for a suit for injunctive relief authorized by Title 42, U.S.C., Section 1983 or Title 28, U.S.C., Section 2201, in that there is no showing of an unreasonable classification or any other denial of equal protection as Paragraph 1 sets out as rights, privileges, and immunities sought to be redressed.

2. In answer to Paragraph 2 of the complaint, defendants deny that this is a proper case for determination pursuant to 28 U.S.C. 2201 in that the complaint as a whole fails to set out a right in the plaintiff or in any other mothers similarly situated to secure injunctive relief from the defendant officers of the State of Alabama as set out in Paragraph 2.

3. For answer to Paragraph 3 of the complaint, defendants deny that jurisdiction is conferred on this Court by virtue of the code sections cited in that the complaint as a whole fails to establish such right.

4. Defendants admit the first four sentences of Paragraph 4 of the complaint. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the remainder of Paragraph 4 of the complaint. Defendants further allege that not one of them has any knowledge of nor has any one of them received in any way notice of the plaintiff's alleged letter to the President of the United States referred to in Paragraph 4 of the complaint.

5. For answer to Paragraph 5 of the complaint, defendants aver that plaintiffs are not bringing this action on behalf of all persons similarly situated pursuant to the Federal rules of civil procedure in that they are purporting to represent only needy Negro mothers and dependent Negro children in a class action based on a rule which is applicable to all needy mothers and needy dependent children without regard to race. While defendants in no way

discriminate in the policy plaintiffs are complaining of, plaintiffs clearly are seeking to represent only Negro members of the class which they seek to represent. This constitutes only one segment of the population of the class described in the policy as a whole and to which the policy, by state and Federal law, is applicable. In the first sentence of Paragraph 5 of the complaint plaintiffs purport to bring the action on the behalf "of all other persons similarly situated." However, plaintiffs in the next sentence of Paragraph 5 define "the class similarly situated" as "needy Negro mothers and dependent Negro children." By law and policy the class involved in the policy, of defendants would represent that class of person who is described in the regulation regardless of race. If this policy affects a larger number of persons in any one ethnic group, it is not because of any inherent discrimination in the policy or the promulgation of the policy or in the application of the policy.

6. Defendants admit the allegations contained in Paragraph 6 of the complaint, except in the last paragraph. Defendant Wilkinson is not solely responsible for enforcing all of the regulations of the State Department of Pensions and Security in Dallas County.

7. In answer to Paragraph 7 of the complaint, defendants admit the allegations contained in subsections a, b, and c. In answer to subsection d, defendants say that the provisions of law cited are not the sole governing provisions of law applicable to the granting or refusing to grant Aid to Dependent Children financial assistance. Defendants could not make payments to any grantee relative on behalf of any dependent child unless the provisions of Title 49, § 17 (15), Code of Alabama 1940, recompiled 1958, are complied with.

8. Defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of

the allegations contained in Paragraph 8 of the complaint.

9. Defendants deny the allegations in the first two sentences of Paragraph 9 (a) and allege that the determination about the applicability of the substitute father policy was made upon information given to Mrs. Stancil by plaintiff Smith in October 1966, which information was in substance that plaintiff Smith had engaged in a marital relationship with Mr. Willie E. Williams for a period of six years and was continuing to do so. The substitute father policy was explained by Mrs. Stancil to Mrs. Smith. Defendants allege that Mrs. Stancil explained that under the agency policy cohabitation meant having sexual relationship with a man, that plaintiff understood this and stated that she was having sexual relationships with Mr. Willie E. Williams. Mrs. Stancil also explained that if at any point Mrs. Smith chose to break off this relationship, she, Mrs. Stancil, would, in accordance with agency policy, assist Mrs. Smith in establishing that this relationship had been broken.

9 (b). Defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 (b) of the complaint.

9 (c). Defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 9 (c) of the complaint that "Mr. Williams has known plaintiff Smith virtually all her life"; defendants admit that Mr. Williams has visited in plaintiff Smith's home frequently during at least the last five years, as alleged in the last clause of the first sentence of Paragraph 9 (c) of the complaint, or more. Defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the remainder of Paragraph 9 (c)

of the complaint. Defendants allege, however, that plaintiff Sylvester Smith has willingly discussed and freely admitted to workers in the Dallas County Department of Pensions and Security a continuing sexual relationship with Mr. Williams.

10. Defendants deny each and every allegation contained in Paragraph 10 of the complaint.

11. Defendants deny each and every allegation contained in Paragraph 11, including subparagraphs A, B, C, D, E, and F thereunder, of the complaint.

12. Defendants deny each and every allegation contained in Paragraph 12 of the complaint.

13. Defendants deny each and every material allegation of the complaint not herein specifically admitted.

Defendants pray to be hence dismissed with their reasonable costs.

/s/ MacDONALD GALLION,
MacDONALD GALLION,
Attorney General,

/s/ MARY LEE STAPP,
MRS. MARY LEE STAPP,
Assistant Attorney General,

/s/ CAROL F. MILLER,
MRS. CAROL F. MILLER,
Assistant Attorney General,
64 North Union Street,
Montgomery, Alabama,
Attorneys for Defendants.

Certificate of Mailing.

Montgomery, Alabama
January 23, 1967

I hereby certify that on January 23, 1967, I served a copy of the foregoing Answer upon Honorable Charles S. Conley, 315 South Bainbridge Street, Montgomery, Alabama, Attorney for plaintiffs, by depositing a copy thereof in the United States mail, postage prepaid, envelope addressed to said attorney at his address set forth hereinabove, which address is the last address of the attorney known to me.

CAROL F. MILLER,
Attorney for Defendants.

Certificate of Mailing.

I hereby certify that on January 23, 1967, I mailed a copy of the foregoing Answer to Honorable Ramsey Clark, Attorney General of the United States, Washington, D. C., and a copy of said Answer to Honorable Ben Hardeman, United States Attorney, P. O. Box 197, Montgomery, Alabama, each with postage prepaid.

CAROL F. MILLER,
Attorney for Defendants.

EXHIBIT A.

Administrative
Letter No. 2103
January 24, 1966

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Appeals and Fair Hearings

We have recently received a revised section of the Federal Handbook on Appeals and Fair Hearings. In the main, our present policies relating to appeals are in line with the Federal material. We therefore, are not revising our Public Assistance Manual, Part I, on Appeals and Fair Hearings at this time. Your special attention is called, however, to the following procedures.

At the time of application and at the time of any agency action affecting an applicant's or recipient's claim to aid, he must be given a written statement of the right to a hearing and the method by which a hearing may be obtained. The manual provides that a copy of the eligibility statement, which contains information about appeals, will be given each person at time of application. Effective immediately, a copy of the appropriate eligibility statement will be enclosed with each award authorization, change of status affecting the payment, termination of award and denial of aid mailed to each applicant or recipient. Record the date each time a copy of the eligibility statement is given to or mailed to the client. This must be done by an entry on the Face Sheet under item IX.

Provision is made in the new Federal material that the claimant may employ a lawyer of his choice to represent

him in an appeal. Under Federal policies it is also permissive for states to pay the fee for such legal service with participation in the cost by the Federal Government. It has long been possible under our policies for claimants to employ lawyers to represent them in appeals and some claimants have exercised this right. We will continue such policy. It will not be possible for us, at this time, to provide for the cost of such legal service. We will, however, accept appeals which are made for applicants or recipients of aid by their duly authorized lawyers.

Please see that the appropriate members of your staff are informed of the contents of this letter.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

May, 1966.

Ala. Manual, Part I I-3

Do not count as an application a referral made for a person without his knowledge and consent, except when application was made by a legal representative, legal guardian, or one of the persons specified with whom a mentally handicapped minor lives.

Do not take applications on persons who make inquiries only. When it appears that a person concerned in an inquiry or a referral may become an applicant, make a master index card and post it on the back as "Inquiry" or "Referral".

Clear every application with the master index card file on the date it is received. If no previous record is found, make a master index card and file it. The date of the request is the official date of application. Make a control card on every application immediately upon receipt of the application. Handle and report all

applications according to financial and statistical procedures in Chapter Four and instructions for preparing the monthly statistical report relating to applications in Part II of the manual.

Handle a reapplication in the same way as a new application.

III. *Application Interview.*

Interviews are usually held in the office, in an intake center, or in the home. When an applicant is too ill or too handicapped to be interviewed, interview his legal representative, legal guardian, or the person directly responsible for his care.

A. *The first interview* is an important part of the process of determining eligibility and the need for other services. Follow the procedures given below:

1. Explain eligibility requirements, a person's right to a fair hearing, and the procedure for requesting a hearing. Give each applicant a copy of the eligibility requirements if he wishes one at the time of application; otherwise, tell him that a copy will be mailed to him along with the decision on on his application. (Refer to Administrative Letter No. 2103, January 24, 1966, relating to appeals and fair hearings.)

2. Explain methods of establishing eligibility.

3. Explain the need for making contacts with relatives and references.

4. Explain the use of documentary and other records for verifying factual data in establishing eligibility.

5. Secure from the applicant information as follows:

a. A clear statement of how he managed in the past.

Section II

Hearings

General Requirements

Titles I, IV, X and XIV of the Social Security Act provide for fair hearings for applicants and recipients of OAP, MAA, AB, ADC, and APTD. Alabama law provides for fair hearings in OAP, MAA, AB, ADC, and APTD. By State policy, the same fair hearing procedure applies to TA.

At the time of application, give each applicant a written statement of the right to a hearing and the method by which a hearing may be obtained. For this purpose, use the summary eligibility statements, which include the hearing procedure.

Keep a copy of the rules and regulations on hearings posted in the county department in a convenient place for everyone to see.

Organization and Conduct of Hearings

The Committee on Hearings of the State Department is composed of the following:

1. The assistant director of the Bureau of Public Assistance, Chairman;

2. The director of the Bureau of Field Service;

3. A field representative from a district other than the one in which the request for a hearing is made, or another State staff member with social work background and with administrative or supervisory responsibilities, or the legal advisor.

The Committee acts for the State Department in planning and conducting hearings. It makes its recommendations in writing to the Commissioner, who has responsibility for the final decision on each hearing. In APTD cases, the State Review Team will assist the Committee on Hearings in making recommendations to the Commissioner on the eligibility factor of permanent and total disability.

Any member of the Committee who has not taken part in the action under consideration may serve as hearing officer and conduct the hearing. If a member has taken part in the action by assisting the county department in the review or making some independent investigation, that member may attend the hearing but can neither conduct it nor participate in the final recommendations.

The chairman of the Committee on Hearings is responsible for handling hearing procedures, including correspondence and clearance with field representatives, county departments, and claimants.

The hearing officer represents the Alabama State Department of Pensions and Security and has full control over a hearing, although other State staff members may be present. The duties of the hearing officer are as follows: (1) to direct the hearing; (2) to explain the conduct of the hearing, the type record which will be made of it, the claimant's right to review it in the county office at any reasonable time, and the manner in which the decision

will be made and given to the claimant; (3) to hear testimony; (4) to examine witnesses and otherwise receive evidence having a direct bearing on the point or points at issue; and (5) to exclude from the hearing material unrelated to the point(s) at issue. Questions directed to the hearing officer must be limited to those concerned with the explanation of the hearing procedure.

There is only one party to a hearing—the claimant himself. He is not opposed at the hearing by either the county or State departments. While neither of these departments is supported by an advocate, staff or board members of either department may attend and may serve as witnesses if they have factual knowledge of the case.

The hearing officer may call and examine witnesses on his own, but he must then give the claimant or his representative an opportunity to cross-examine these witnesses. The hearing officer may also cross-examine witnesses introduced by the claimant.

The role of the hearing officer is that of an impartial tribunal, and in examining witnesses and in the general conduct of the hearing, he must maintain an attitude of impartiality. The only objective in examining witnesses shall be to attempt to arrive at the truth concerning the issues involved.

The claimant must be present at the hearing unless the Commissioner or Committee on Hearings excuses him for a specific reason. He may present his case himself at the hearing or may designate one person as his official representative. He may also have members of his family and other persons present, who may serve as witnesses. Staff and Board members of the State and county departments may also serve as witnesses. (The hearing officer will consider a person qualified to be a witness only when the person has factual data about the point(s) at issue.)

In general, the hearing consists of the following procedures.

Statement of Issue—The hearing officer will state the issue(s) as set forth in the claimant's appeal. When the request for a hearing is based on a decision as to eligibility, the hearing officer will make a statement for the record of the hearing with respect to points of eligibility which have previously been satisfactorily established. The hearing officer will then define the issue(s) under consideration in the hearing. The claimant or his representative will be asked whether he accepts the statement of the issue(s). If not, the claimant or his representative may correct or modify the statement. The issue(s), however, must have a bearing upon the claimant's eligibility or amount of payment.

Period of Testimony—The hearing officer will hear testimony about the defined issue(s) from the claimant, his designated representative, and qualified witnesses. All persons giving testimony must confine their remarks to factual information about the issue(s) relating to the establishment of eligibility or payment in the particular case. The hearing officer, the claimant, or his designated representative may direct questions to witnesses, as indicated, provided the questions relate to the defined issues. Written statements of evidence from all sources and other exhibits may also be presented and examined.

During the period of testimony, the hearing officer will not hear complaints or arguments about Federal and State laws or policies.

Period of Arguments—The hearing officer will allow a reasonable time (usually not more than 30 minutes) for the claimant or his representative to summarize their

factual data and to present any arguments and complaints they wish about the point(s) under consideration in the particular case. This may include refuting oral or written testimony.

Conclusion of Hearing—The hearing officer will close the hearing when satisfied that all available facts relating to the issues involved in the hearing have been given.

Rules and Regulations

1. Each person requesting review of his case has free choice of whether such review shall be handled through informal complaint and adjustment procedures or through a hearing. If he chooses a hearing, it cannot be delayed or cancelled without his consent because of a review by the local office.

2. Any person dissatisfied with the county department's action or failure to act on his claim to aid has a right to request a hearing. He may do so when:

a. His application is denied or is not acted upon within one month.

b. His check is discontinued.

c. He is dissatisfied with the amount of payment.

d. He is otherwise dissatisfied in regard to his claim to aid.

A request for a hearing based on action by the county department must be filed within 90 days of the action questioned.

3. A request for a hearing must be filed in writing and signed by the applicant/recipient, his legal guardian, a grantee relative in ADC, or by a parent or brother or sister of a mentally handicapped minor under 21 (APTD and AB). It must give the reason(s) for dissatisfaction, the date on

which the cause of dissatisfaction occurred, and the claimant's correct mailing address. It may be filed with either the county department or the State Department. The one receiving the request must notify the other within five days.

4. Within five days after the State Department receives (from the claimant or the county department) the written request for a hearing, the State Department sends the claimant in writing the following information:

a. The procedure at the hearing;

b. The claimant's option to present his case or be represented by an authorized person;

c. The claimant's right to present written evidence and testimony and to bring to the hearing members of his family and other persons;

d. The hearing will be held at a place convenient to him, either in the State office or elsewhere. He will be notified in advance of the time, date, and place.

The claimant will be advised of possible further investigation by the county department. A copy of this information will also be sent to the county department.

5. The chairman of the Committee on Hearings refers the request for a hearing to the field representative or another member of the State staff. Within 20 days after the request is received, this staff member will review the case with the county department and will make or ask the county director to make any further investigation necessary. The claimant will also be requested by either the State or county department to furnish necessary information which he can readily secure.

6. If the total findings in the case show that the county department should take further action, such action must

be taken at once. When the original reason for the hearing has been removed by action taken by the county department, the State Department will write the claimant a letter, stating this to be the case and asking if he wishes to withdraw his request for a hearing. This shall not prohibit his continuing with the hearing, if he so desires. Any decision to withdraw must be his own. The withdrawal should be in writing and should state the reason for withdrawal. It may be sent or given to either the State or county department. The one getting it will notify the other within five days.

7. A request for a hearing will be considered abandoned if: (a) neither the claimant nor his representative appears at the time and place of hearing; or (b) a time and place for a hearing have been set but the claimant asks for a delay and does not wish to set another date; and (c) within 30 days after the mailing of an inquiry as to whether he wishes any further action taken on his request for a hearing, no reply is received by either the local or State agency.

8. Wher no satisfactory adjustment is made, the county department shall submit a summary of the case to the chairman of the Committee on Hearings within 30 days after the request for a hearing is received in the State Department. This summary shall be a part of the written testimony for examination at the hearing. It shall include only factual data relating directly to the issue under review. In addition, the State staff member who reviewed the case shall submit a written report, together with recommendations. This report shall become a part of the written testimony at the hearing.

9. Upon receipt of the necessary information, the chairman of the Committee on Hearings sets a date, time, and

place for the hearing. This date shall be within 20 days after such information is secured unless more time is needed for a reasonable cause. The State Department shall notify the claimant, the county department, and the field representative at least 10 days before the hearing. The county director will advise the chairman of the county Board of the date, time, and place of the hearing.

10. If it becomes evident during the hearing that the issue actually involved is different from the one on which the hearing was requested, the hearing, at the discretion of the hearing officer, shall be conducted on the new issue. All evidence constituting the basis for decision must be presented at the hearing or at a continuation thereof.

11. The hearing may be adjourned from day to day or to a designated date, at the discretion of the hearing officer, when reasonably necessary to give full opportunity to obtain and present all evidence concerning the points at issue in the particular case. The hearing may be concluded when the hearing officer is satisfied that all pertinent information bearing upon the issue(s) has been introduced and examined.

12. The hearing officer shall decide on the type record to be made of the hearing. It may be: (a) a complete, verbatim transcription from shorthand notes; or (b) a verbatim machine recording; or (c) a summary report containing the main facts, including the oral and written testimony, questions, and rebuttal. The type record chosen shall become a part of the complete record. The claimant shall be told of his right to review the record of the hearing at any reasonable time. If he does not wish to review the record, it will not be necessary to transcribe machine recordings, but these recordings will be available to the Committee on Hearings and the Commissioner and will be retained as a permanent part of the files in the State Department. If the record is made of the hearing other than

by machine recording or if the claimant does state his desire to review the record, the procedure in the paragraph below will be used.

If a machine recording is used, either the State or county department will have it transcribed in triplicate. If a verbatim transcription is made from shorthand notes, the county department shall have this typed up in triplicate immediately following the hearing. Any record typed by the county department shall be forwarded in triplicate at once to the hearing officer in the State Department for review and editing. The hearing officer shall return one copy of the edited record to the county department to become

a part of its permanent files. This copy will be made available for inspection by the claimant or his representative at any reasonable time. The remaining copies will be submitted to the Committee on Hearings for review. If it is decided that additional facts are needed, the Committee on Hearings will have the hearing re-opened in order to secure them.

13. The Committee on Hearings will make recommendations to the Commissioner as soon as possible after the close of the hearing. The Commissioner makes the final decision based only on the oral and written evidence, testimony, and exhibits introduced at the hearing. Not more than three weeks shall elapse between the close of the hearing and the final decision. The decision must be in writing, signed by the Commissioner, and shall set forth the issue(s), the principal and relevant facts brought out at the hearing, the pertinent provisions in law and agency policy, and the reasoning that led to the decision. Copies of the decision shall be sent to the claimant and to the county department immediately following the action of

the Commissioner. The decision shall be final and shall be binding upon the claimant and the county department.

14. Upon receiving a copy of the decision, the county department shall take immediate steps to see that any necessary action is taken. If the decision requires action by the county department, the county director shall send a written report to the Commissioner stating what has been done. Continuing supervisory responsibility is delegated to the field representative.

15. A decision on a fair hearing is binding on the county department and is not invalidated by county action so long as the conditions under which the decision was made remain the same. However, this does not preclude the county department from modifying the award or making other changes to meet changed conditions in the claimant's situation, in law, or in policy.

16. When new evidence indicates that a valid decision has not been made, the Committee on Hearings has the authority to decide to re-open a case for re-hearing, either through its own motion or upon request of the claimant.

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In the United States District Court for the Middle District of Alabama, Northern Division.

Mrs. Sylvester Smith, Individually and on Behalf of Her Minor Children, Ida Elizabeth Smith, Ernestine Smith, Willie Louis Smith and Willie James Smith and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated,
Plaintiffs,

vs.

Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama; Lurleen Burns Wallace, Chairman, State Board of Pensions and Security, State of Alabama; James Record, Mrs. Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, Mrs. Mary Ella Reavis, Members of the State Board of Pensions and Security, State of Alabama; Mrs. Clinton S. Wilkinson, Sr., Director, Dallas County Department of Pensions and Security, Individually and in Their Official Capacities,
Defendants.

Civil Action.
No. 2495-N.

WRIT OF INJUNCTION.

To the Above-Named Defendants and Each of Them:

Take Notice that you and each of you, your agents, employees and successors, and all persons in active concert and participation with you, who shall receive notice of this order, be and you are hereby Enjoined and Re-

strained as more particularly set out in the opinion and the decree of this Court made and entered in this cause on this date, copies of which are herewith served upon you. This writ of injunction is issued in accordance with said opinion and decree.

Witness my hand and the seal of this Court on this the 8th day of November, 1967, at Montgomery, Alabama.

R. C. DODSON,
Clerk of the United States District Court
for the Middle District of Alabama,
By: JANE P. GORDON,
Deputy Clerk.

OPINION.

(Caption omitted.)

(Filed Nov. 8, 1967.)

Before Godbold, Circuit Judge, and Johnson and Pittman, District Judges.

Per Curiam:

I.

This is an action for declaratory and injunctive relief filed pursuant to 42 U.S.C., § 1983.[1] The "rights, privileges, or immunities" sought to be redressed are those secured by the Equal Protection and Due Process Clauses of

[1] "§ *1983. Civil action for deprivation of rights*

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. R. S. § 1979."

the Fourteenth Amendment to the Constitution of the United States and by the Social Security Act, 42 U.S.C., §§ 601-609. The declaratory judgment aspect of the action is pursuant to 28 U.S.C., § 2201.

Plaintiff Sylvester Smith, a citizen of the United States, the State of Alabama and the County of Dallas, and the mother of plaintiffs Ida Elizabeth Smith, aged 14; Ernestine Smith, aged 12; Willie Louis Smith, aged 11, and Willie James Smith, aged 9, brings this action in her own behalf, in behalf of said minor children and, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, in behalf of all other persons similarly situated.

The defendants are the chairman, members and officials of the Alabama State Board of Pensions and Security, responsible, in conference with the Commissioner, under the law of Alabama for the adoption of policies, rules and regulations of the Alabama State Department of Pensions and Security. Code of Alabama, Title 49, § 17. The Commissioner of the Alabama Department of Pensions and Security has a statutory responsibility for the adoption of the regulations designed to effect the policy and for exercising the executive and administrative duties of the Alabama State Department of Pensions and Security. Code of Alabama, Title 49, § 17. The defendant Mrs. Clinton S. Wilkinson, Sr., is Director of the Dallas County Department of Pensions and Security and is responsible under the law of Alabama (Title 49, § 17) for enforcing the policies and regulations of the Alabama State Department of Pensions and Security in the County of Dallas.

Since the plaintiffs seek injunctive relief restraining the defendant officers of the State of Alabama from the enforcement, operation and execution of a statewide regulation set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, Par. V (entitled "Child Ineligible if There Is a Father or

Mother Substitute") and commonly referred to as the "substitute father" regulation,[2] on the ground of the unconstitutionality of said regulation when measured by the requirements of the Constitution of the United States, a three-judge court was convened, pursuant to 28 U. S. C.,

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[2] "V. *Child Ineligible if There Is a Father or Mother Substitute*

"A. *Father Substitute*: An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

"When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under 'Physical or Mental Incapacity'; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

"Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately."

§ 2281, for hearing and determining this action. Jurisdiction is conferred on the court by 28 U.S.C., § 1343(3) and (4).

II.

By stipulation of the parties made and filed with the Clerk of this Court, the action is submitted on depositions, numerous documents and exhibits, and the briefs and arguments of the parties.

For several years prior to October 1, 1966, plaintiff Sylvester Smith and her children had been recipients of financial assistance under the Aid to Dependent Children program of the State of Alabama, a public assistance program authorized by the Code of Alabama, Title 49, § 17 and 42 U.S.C., §§ 601-609. By notice dated October 11, 1966, plaintiff Smith and her children were removed, retroactively to September 30, 1966, from the list of persons eligible to receive such aid; this action was taken by the Dallas County, Alabama, welfare authorities pursuant to the "substitute father" regulation. In all respects, except for the "substitute father" regulation promulgated and enforced by the defendants, plaintiffs and the members of their class are eligible for and entitled to receive financial assistance under the Aid to Dependent Children program.

The defendants, in order to receive federal funds for the Aid to Dependent Children program conducted for the State of Alabama, have been required by the provisions of 42 U.S.C., §§ 601-609 to formulate a "State Plan" for aid to dependent children consistent with the provisions of the Constitution of the United States and the provisions of 42 U.S.C., § 601 et seq. Under the terms of the Code of Alabama, Title 49, § 17(7), the defendants are also required to "Act as the agent of the federal government . . . in the administration of any federal funds granted to

the state to aid in the furtherance of any of the functions of the state department . . ." and otherwise to act as the agents of the federal government in the furtherance of the objectives of the Aid to Dependent Children program. With this arrangement, federal funds are granted under the provisions of 42 U.S.C., § 601 et seq., and these funds constitute the major share of Aid to Dependent Children grants in the State of Alabama.[3]

Under the terms of 42 U.S.C., § 606(a), a "dependent child" is defined as:

> ". . . a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary)

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[3] Alabama requires defendants to provide Aid to Dependent Children financial assistance "on behalf of any needy child who is a dependent child as defined in the Federal Social Security Act or amendments thereto who shall comply with the applicable requirements of this chapter, and who: (a) Has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; (b) who meets any one of the following residence requirements—(1) has resided within the state for one year immediately preceding the application for aid, or (2) was born within the state within one year immediately preceding the application for aid, or whose parent or other near relative (as defined in the Federal Social Security Act) with whom the child is living has resided in the state for one year immediately preceding the birth of said child; (c) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefits of this chapter; and (d) is not receiving any other type of public assistance for which federal matching is available. . . ." Code of Alabama, Title 49, § 17 (14).

> a student regularly attending a school, college, or university, its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;"

Three of the plaintiff children have not since 1955 received parental support or care from their father, who has been dead since that year. The fourth plaintiff child has not for several years received parental support or care from his father, who has been continuously absent for many years. All the plaintiff children are living in the home of their mother, plaintiff Sylvester Smith, and all are under the age of 18 and are not receiving any other type of public assistance. The sole income of plaintiff Smith and her children is the sum of $16 per week, which sum represents wages paid to her for working as a waitress; said income is below the financial standards promulgated by the defendants as necessary for a subsistence compatible with decency and health. In October 1966, Sylvester Smith was advised by an employee agent of the defendants that the "substitute father" of the Smith children was Willie E. Williams; that she and her children were no longer eligible for Aid to Dependent Children financial assistance because Mr. Williams was the "substitute father," and that Mrs. Smith and the children should look to Mr. Williams for financial support. Thereafter, the Aid to Dependent Children financial assistance was formally terminated through the use of the "substitute father" regulation. The evidence reflects that Willie E. Williams has nine children of his own and that he lives with his family, including his wife and eight of their nine children, who are dependent on him for support. Willie E. Williams is not now, nor was he at the time of the termination of benefits to the plaintiffs, willing or able to support the Smith children. Willie E. Williams is the father of none of the children of plaintiff Sylvester Smith and does not live in the Smith home. While the evidence

on this point is conflicting, it reflects with reasonable certainty that Dallas County, Alabama caseworker Mrs. Jacquelyn Stancil received a report that Willie E. Williams was periodically visiting in the home of Sylvester Smith and that from time to time Willie E. Williams and Sylvester Smith were engaging in sexual activity. The length or frequency of Willie E. Williams' visits with Sylvester Smith does not appear. Sylvester Smith failed to submit "evidence showing that the relationship" had been discontinued.

III.

Some discussion of the federal-state welfare relationship, particularly the negotiation concerning the promulgation of policies such as are now under consideration, provides some pertinent historical background. In January 1961, the Secretary of Health, Education and Welfare —after a hearing on a plan that had been adopted and promulgated by the State of Louisiana which was very similar to the rule now under consideration—stated what later became known as the "Flemming Ruling":[4]

> "I have concluded that when a needy child who otherwise fits within the Aid to Dependent Children program of the State is denied the funds that are admittedly needed to provide the basic essentials of life itself, because of the behavior of his parent or other relative, the State plan imposes a condition of eligibility that bears no just relationship to the Aid to Dependent Children program. I therefore believe that this Department should inform the State agencies administering Aid to Dependent Children plans that

[4] Notice of this ruling was given to all "State Agencies Administering Approved Public Assistance Plans," including the Alabama Department of Pensions and Security, on January 17, 1961 in State Letter No. 452, Bureau of Public Assistance, Social Security Administration, Department of Health, Education and Welfare, page 1.

eligibility conditions with the effect described above are not compatible with entitlement for continued Federal grants."

The United States Commissioner of Social Security, following the "Flemming Ruling," issued a statement to the effect:[5]

> "A State plan for aid to dependent children may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable, while the child continues to reside in the home. Assistance will therefore be continued during the time efforts are being made either to improve the home conditions or to make arrangements for the child elsewhere."

It was announced that the United States Department of Health, Education and Welfare's reasons for rejecting such policies were that:[6]

> "It is of great importance that State agencies should be concerned about the effects on children of the environment in which they are living and that services be provided which will be directed toward affording the children maximum protection and strengthening their family life. Whenever there is a question of the suitability of the home for the child's upbringing, steps should be taken to correct the situation or, in the alternative, to arrange for other appropriate care of the child. It is completely inconsistent, however, to declare a home unsuitable for a child to receive assistance and at the same time permit him to remain in the same home exposed to the same environment."

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[5] Ibid., p. 2.

[6] Id.

Even before the "Flemming Ruling" and as early as April 1956, the then Alabama Commissioner of Welfare and the federal authorities corresponded with some frequency in an effort to determine whether the Alabama policy was in conformity with federal requirements insofar as that policy related to "suitable family" homes, and in April 1959 the United States Department of Health, Education and Welfare by letter indicated certain substantial defects in legislation that was being proposed for the State of Alabama at that time:

> "Section 2 of the proposed legislation defines a 'suitable home' as one which provides a 'stable environment' and lists criteria to be applied to the determination of a 'suitable home' and a 'stable environment'. It appears under this definition that the birth status of the child of a non-marital, but stable, union would not affect eligibility if the home was determined suitable. However, one of the criteria listed—'has continued to have illegitimate children' raises a question as to its meaning and intent. If, regardless of the fact that the home provided a 'stable environment', the children were to be denied ADC because all the children were illegitimate, or because a number of them were illegitimate, it would raise a question of reasonable classification."
>
> • • • • • • • •
>
> "Section 3 raises a number of questions as to its meaning and its consistency with Section 2. Can 'illicit relationships' be interpreted as not including a 'stable environment', i. e., would a child of a 'stable union' born after the receipt of ADC be regarded as illegitimate?
>
> "If interpreted so that parents maintaining a stable relationship (non marital) and providing a suitable home for the children receiving ADC because of incapacity of one parent will be removed from ADC

if and when another child is born, it would raise a question. The termination of assistance would be due entirely to the birth of an illegitimate child rather than to any change in the home environment that had been considered stable up to that point."

In May 1959 a new suitable home policy was submitted to the Department of Health, Education and Welfare. After review by that department, it was declared "unsuitable," and then later, in August 1959, still another suitable home policy was sent to the federal authorities for approval, with the same results. This negotiating continued, and in June 1961 the federal authorities replied to an Alabama submission as follows:

"Since HB 613 appears to contemplate denial of assistance to the children who are permitted to remain in their homes after finding that the home is unsuitable it is inconsistent with Title IV of Social Security Act as amended by P. L. 87-31. Furthermore, finding of unsuitability based solely on birth status of child is also inconsistent with Title IV."

Still later—and over two years after the "Flemming Ruling"—the federal authorities, by letter dated June 12, 1963, advised the welfare authorities for the State of Alabama that the "suitable home" policy bills then being submitted to the Alabama Legislature

". . . appear to deny assistance to a needy child because he is found living in a home considered to be unsuitable. Since the proposed legislation provides for denial of assistance under the AFDC program while the child remains in the home without providing for other 'adequate care and assistance for such child,' it cannot be considered to be consistent with the Social Security Act."

The evidence in this case reflects that immediately after his appointment in January of 1963, Ruben K. King,

present Commissioner of the Alabama State Department of Pensions and Security, commenced a complete study of the Aid to Dependent Children program in the State of Alabama; this study led to the adoption and promulgation of the "substitute parent" policy now under consideration.[7]

The "substitute father" regulation presently under consideration by this Court is substantially the same as the regulation first submitted to the Department of Health, Education and Welfare in September 1964 by Commissioner King and his organization. Upon receiving the Alabama "substitute father" regulation, the Atlanta Regional Director for the Department of Health, Education and Welfare, by letter dated August 31, 1964, responded by stating:

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[7] While the plaintiffs placed considerable emphasis upon facts strongly indicating that the "substitute father" regulation was designed to discriminate and has the effect of discriminating against Negroes, by reason of the facts presented, this case does not rest upon racial considerations and therefore the decision should not rest upon such considerations. On the contrary, this decision should be and will be designed to enure to the benefit of all needy children regardless of their race or color. The Equal Protection Clause is not restricted in its application to the protection of the rights of Negroes. It is more far-reaching, protecting the rights of any identifiable class. See, e. g., the opinion of another panel of this Court, *White v. Crook*, 251 F. Supp. 401, 408-09 (M. D. Ala. 1966).

In this connection, the Alabama Commissioner, Mr. King, testified that since June 1964, when the "substitute father" regulation was promulgated, the Alabama Aid to Dependent Children rolls have been reduced by 16,000 children. Commissioner King's testimony on this point was as follows:

"Q. Can you tell us the approximate number of recipients under the child eligible rule?

A. Do you want it prior to the substitute parent policy?

Q. Prior to and subsequent to.

A. In June of 1964, there were 22,373 cases in Aid to Dependent Children. In June of 1964, there were 92,124 recipients: of these, 72,764 were children. In January of 1967, there were 71,228 total number of recipients under the ADC program; of which 56,822 were children."

"We have reviewed Administrative Letter No. 1919 which amended, effective July 7, 1964, the approved Alabama AFDC plan. This Administrative Letter purports to amend your policies on deprivation of parental support or care, with the specifically stated purpose of restricting the AFDC caseload. This amendment goes far beyond your presently approved plan in that it results in ineligibility of all children living in a home with a mother, if she cohabits with a man who is not her husband, or is illegitimately pregnant, or has given birth to an illegitimate child within the preceding six months, irrespective of whether the man has any family relationship with the mother and the child or children.

"This policy raises a serious question with Section 404(b) of the Social Security Act and State Letter No. 452 by denying aid 'with respect to a child because of the conditions in the home in which the child resides'. Under the identified Federal law and policy a State may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis of behavior of the mother or other unsuitable conditions in the home so long as the child continues to reside in the home. The provisions of Administrative Letter No. 1919 seem clearly to be out of conformity with such law and policy.

"Other provisions of the policy imposing the burden on the mother with respect to proof of identity of the father or his whereabouts appear to be so unreasonable as to bring into question their acceptability under Federal policy. Eligibility may not be conditioned upon requirements which go beyond the parent's ability to meet.

"The Regional office is unable to accept Administrative Letter No. 1919 for incorporation into your approved AFDC plan. We would suggest, therefore, that

you rescind this letter and reinstate the cases that have been closed under this policy."

Considerable correspondence ensued between the Alabama and the federal authorities concerning this "substitute father" regulation; however, this correspondence was to no avail, and the approval of the Department of Health, Education and Welfare to such policy was never obtained. In this connection, the evidence reflects that the Alabama regulation (now amended in minor details) presently in effect has not eliminated the administratively objectionable features of its predecessors.

IV.

As noted earlier, Aid to Dependent Children financial assistance is a statutory entitlement under both the laws of Alabama and the federal Social Security Act, and where the child meets the statutory eligibility requirements he has a right to receive financial benefits under the program. It is clear that Alabama, having undertaken to cooperate with the federal government in providing an Aid to Dependent Children program and having accepted federal financial assistance for that purpose, is not now free to bestow the benefits of the program upon some needy children and arbitrarily to deny them to others. There cannot be any picking and choosing of the mothers and children who will be aided if it is done in an irrational or in an arbitrary manner. Some children cannot be classified as eligible and others ineligible without a reasonable basis for distinguishing one class from the other; classifications may only be created which are rationally related to the purpose of the federal and Alabama Aid to Dependent Children statutes. These are some of the basic requirements of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. These basic principles were stated as early as 1896 in

Gulf, Colorado and Santa Fe Railway Company v. Ellis, 165 U.S. 150, 155, 17 S. Ct. 255, 41 L. Ed. 666:

> "The attempted classification . . . must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis."

The Supreme Court continued by pointing out that "arbitrary selection can never be justified by calling it classification." 165 U.S. at 159. This doctrine of constitutional law has developed to the extent that its application may be stated as "rules." Those rules were reiterated in *Morey v. Doud,* 354 U.S. 457, 463-64, 77 S. Ct. 1344, 1 L. Ed. 2d 1485 (1957).

> "The rules for testing a discrimination have been summarized as follows:
>
> "'1. The equal protection clause of the Fourteenth Amendment does not take from the State the power to classify in the adoption of police laws, but admits of the exercise of a wide scope of discretion in that regard, and avoids what is done only when it is without any reasonable basis and therefore is purely arbitrary. 2. A classification having some reasonable basis does not offend against that clause merely because it is not made with mathematical nicety or because in practice it results in some inequality. 3. When the classification in such a law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enacted must be assumed. 4. One who assails the classification in such a law must carry the burden of showing that it does not rest upon any reasonable basis, but is essentially arbitrary.' *Lindsley v. Natural Carbonic Gas Co.,* 220 U.S. 61, 78-79."

For illustrations of the breadth of factual situations in which these rules apply, see also *Rinaldi v. Yeager,* 384

U.S. 305, 308, 309, 86 S. Ct. 1497, 16 L. Ed. 2d 577 (1966); *McLaughlin v. Florida,* 379 U.S. 184, 85 S. Ct. 283, 13 L. Ed. 2d 222 (1964) and cases cited, 379 U.S. at 190, 191; *Hernandez v. Texas,* 347 U.S. 475, 478, 74 S. Ct. 667, 98 L. Ed. 866 (1954).

This Court is clear to the conclusion that Alabama's "substitute father" regulation creates precisely the type of classification prohibited by the Equal Protection Clause. The Alabama regulation directs that Aid to Dependent Children financial assistance not be given to a class of children who meet the statutory eligibility requirements and that this financial assistance be denied for an arbitrary reason—the alleged sexual behavior of the mother; such a reason is wholly unrelated to any purpose of the Aid to Dependent Children statutes. The basic purpose of the program (Title IV of the Social Security Act, 42 U.S.C., § 601 et seq.) and the Alabama statute (Code of Alabama, Title 49, § 17) is to provide financial assistance to needy children who are deprived of the support and care of one of their parents. As a matter of fact, the Alabama statute *requires* the defendants to furnish Aid to Dependent Children financial assistance "on behalf of any needy child who is a dependent child as defined in the Federal Social Security Act." As to this aspect of the program, the federal act defines a "dependent child" as one who is "deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent." Despite this clear legislative purpose of both the federal and Alabama statutes, the "substitute father" regulation directs that aid shall not be given to a particular class of needy dependent children who are deprived of parental support or care as a result of the death, or continuous absence of their father from the home, and who in all other respects meet the statutory eligibility requirements. In this regard, the Alabama regulation sets forth three situations in which needy dependent

children, otherwise eligible, are to be denied this financial assistance:

> "(1) When a man (not married to the mother and not the father of the children) lives in the home 'for the purpose of cohabitation' with the mother;
>
> "(2) When a man (not married to the mother and not the father of the children) visits the home 'for the purpose of cohabiting' with the mother;
>
> "(3) When a man (not married to the mother and not the father of the children) 'cohabits' with the mother 'elsewhere', i.e., outside the home."

It is quite clear, therefore, that the Alabama regulation is directed at a dependent child or children whose mother has non-marital sexual relations with a man or men—or, more broadly, whose mother's conduct is immoral, according to the Alabama authorities—and is not in anywise directed to either the support or care of the children by the mother or by the statutorily created "substitute father." This simply means that, through the promulgation of this "substitute father" regulation, the State of Alabama is looking primarily to the moral conduct of the mother and not to the economic factors. The State quite candidly admits in its brief that:

> "Nevertheless, Defendants maintain that the state does not have to close its eyes to the way illegitimate children get born—that the recognition of the economic utilization of 'substitute parents' is not a violation of the Fleming Ruling."

The expressed interest of the State of Alabama in not desiring to underwrite financially or approve situations which are generally considered immoral is a laudable one; the State's argument that this regulation is "a genuine attempt to place the responsibility for taking care of children on persons who bring them into being" is, however, wholly without any realistic or rational basis in-

sofar as this "substitute father" regulation is concerned. The punishment under the regulation is against needy children, not against the participants in the conduct condemned by the regulation. The State is not without means of attempting to solve the problem which it recognizes, short of depriving children of aid because of immoral conduct of the mother. Under the Alabama Support and Desertion Laws (Title 34, §§ 89-104) and the Alabama Paternity Statutes (Title 27, §§ 12(1)-12(9)), the father of children born out of wedlock may be required to support and maintain the children from a financial standpoint. Under Alabama Welfare Agency policies or regulations, if the home situation is considered unsuitable appropriate action may be taken to place the needy children under the care of a Juvenile Court. The State's argument, implied throughout the brief,[8] that the "substitute father" regulation has a rational basis to the definition under 42 U.S.C., § 606(a) of dependent child(ren) who are to receive aid under the Act, by reason of the public's concern over the continued procreation of illegitimate children by persons who seem economically unable to care for them, is utterly unrealistic.

The approval or disapproval of sexual promiscuity is not here involved. What is involved is whether needy children can be deprived of public assistance through the use of a State regulation that creates classifications not rationally related to need and through the use of these classifications deprives approximately 16,000 Alabama children of financial assistance to which they are otherwise entitled. It should be noted that there is no vested legal right for anyone to receive public financial assistance; neither the United States nor the Alabama Con-

[8] E. g.: "Certain phenomena have become apparent and a matter of realistic concern to everyone is the continued procreation of illegitimate children by persons who seem economically unable to care for them and undoubtedly in some instances seem to lack initiative or the desire to properly care for them. This is by no means limited to members of any one race. . . ."

stitution requires Alabama to grant financial assistance to needy dependent children. However, once Alabama undertakes to provide a statutory program of assistance, it must do so in conformity with the constitutional mandate of equal protection. Alabama cannot pick and choose the mothers and children it will aid through the use of some classifications which are not rationally related to the purpose of the applicable statutes. *Anders v. California,* 386 U.S. 738, ... S. Ct. ..., ... L.Ed.2d ... (1967); *Swenson v. Bosler,* 386 U.S. 258, 87 S. Ct. 996, 18 L. Ed. 2d 33 (1967); *Rinaldi v. Yeager, supra; Douglas v. California,* 372 U.S. 353, 83 S. Ct. 814, 9 L. Ed. 2d 811 (1963); *Griffin v. Illinois,* 351 U.S. 12, 76 S. Ct. 585, 100 L. Ed. 891, 55 A.L.R. 2d 1055 (1956), reh. denied 351 U.S. 958, 76 S. Ct. 844, 100 L. Ed. 1480. The irrationality and the unreasonableness of the Alabama regulation is starkly revealed when it is realized that the regulation singles out from the Alabama needy dependent children a particular class who are illegitimate, or whose mothers engage in an illicit sexual relationship, or who have an illegitimate child born in their family, and for one or more of these reasons renders ineligible those children otherwise eligible to receive financial benefits under the Aid to Dependent Children program. This "substitute father" gains his parental status under the Alabama regulation not by any act of fatherhood to the children and not by any support furnished, but merely by having sexual relations with the mother. The regulation assumes that from the mother's alleged sexual relationship the man has assumed the role of the father to her children; this despite the fact that the man is not the father of the children, is not married to the mother, is not living in the home, owes no duty of fatherhood to the children and gives them no financial support or parental care.

This Court concludes that the Alabama "substitute father" regulation is an arbitrary and discriminatory

classification which results in the denial of financial benefits to needy children who are clearly eligible and entitled to receive such benefits under both the federal and state statutes and constitutional regulations and that said children are denied for reasons unrelated to and in conflict with the purposes of these statutes. For this reason, on its face and as the evidence reflects it has been applied in this case, the Alabama "substitute father" regulation deprives those children of the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States.

In view of the conclusions herein reached, it is not considered necessary or even appropriate to deal with plaintiffs' other contentions.

A formal order will be entered accordingly.

Done, this the 8th day of November, 1967.

JOHN C. GODBOLD,
United States Circuit Judge,
FRANK W. JOHNSON,
United States District Judge,
VIRGIL PITTMAN,
United States District Judge.

* * * * * * *

DECREE.

(Caption Omitted.)

(Filed Nov. 8, 1967.)

Pursuant to the findings and conclusions set forth in the opinion and order of this Court made and entered in this cause this date, it is Ordered, Adjudged and Decreed that:

(1) The regulation promulgated by the Alabama State Department of Pensions and Security entitled "Child ineli-

gible if There Is a Father or Mother Substitute" and set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, be and the same is hereby declared invalid for the reason that it is in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

(2) The defendants Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama; Lurleen Burns Wallace, Chairman, State Board of Pensions and Security, State of Alabama; James Record, Mrs. Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, Mrs. Mary Ella Reavis, members of the State Board of Pensions and Security, State of Alabama, and Mrs. Clinton S. Wilkinson, Sr., Director, Dallas County Department of Pensions and Security, their agents, employees and successors, and all persons in active concert and participation with them, are permanently enjoined and restrained from enforcing or giving any further effect to that regulation entitled "Child Ineligible if There Is a Father or Mother Substitute" and set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI.

(3) The defendants, their agents, employees and successors, immediately reinstate upon the Alabama Aid to Dependent Children rolls, regardless of their race or color, each of the children who has been declared ineligible for Aid to Dependent Children financial assistance through the use of the regulation entitled "Child Ineligible if There Is a Father or Mother Substitute" and set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, provided the said children are now otherwise eligible and entitled to receive said assistance.

(4) The defendant Ruben K. King compile and file with the Clerk of this Court within not less than ninety days

from the date of this order a list setting forth the names and addresses of the individuals who have been restored to the Alabama Aid to Dependent Children rolls pursuant to the opinion and decree of this Court.

The Clerk of this Court is Ordered and Directed to take the necessary and appropriate steps to have the United States Marshal for this district personally serve a copy of the opinion of this Court and of this decree upon each of the defendants.

It is further Ordered that the costs incurred in this proceeding be and they are hereby taxed against the State of Alabama.

Done, this the 8th day of November, 1967.

JOHN C. GODBOLD,
United States Circuit Judge,
FRANK W. JOHNSON, JR.,
United States District Judge,
VIRGIL PITTMAN,
United States District Judge.

Supreme Court of the United States.

No. ....., October Term, 1967.

Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama, et al.,
Appellants,

v.

Mrs. Sylvester Smith, Individually and on Behalf of Her Minor Children.

ORDER.

(Filed Nov. 29, 1967.)

Upon Consideration of the application of counsel for appellants, and of the opposition thereto,

It Is Ordered that the execution and enforcement of the decree of the U. S. District Court for the Middle District of Alabama be, and the same is hereby, stayed pending the docketing of the appeal within thirty days from this date. Should the appeal be so docketed, this stay is to remain in effect pending the Court's consideration of such appeal. In the event the judgment is affirmed or the appeal is dismissed, this stay shall expire automatically. Should the Court note probable jurisdiction or postpone consideration of the jurisdictional aspect until a hearing on the merits, this stay is to remain in effect pending the issuance of the judgment of this Court.

/s/ HUGO L. BLACK,
Associate Justice of the Supreme
Court of the United States.

Dated this 27th day of November, 1967.

A true copy

Test:

JOHN F. DAVIS,
Clerk of the Supreme Court
of the United States,
By (Illegible)
Chief Deputy.

In the District Court of the United States
For the Middle District of Alabama,
Northern Division.

Mrs. Sylvester Smith, et al.,
vs.
Ruben K. King, et al.
} Civil Action No. 2495-N.

DEPOSITION OF RUBEN K. KING.

(No. 2 as Noted on p. 1, of Stipulation Filed 4-27-67.)

March 9, 1967

Montgomery, Alabama.

* * * * * * *

[1] In the District Court of the United States
For the Middle District of Alabama,
Northern Division.

Mrs. Sylvester Smith et al.,
Plaintiffs,
vs.
Ruben K. King et al.,
Defendants.
} Civil Action.
No. 2495-N.

Deposition of Mr. Ruben K. King, taken in the above styled cause pursuant to the Federal Rules of Civil Procedure, on the 9th day of March, 1967, at 11:00 a. m., in the office of Commissioner King, of the Department of Pensions and Security, State Administrative Building, Montgomery, Alabama, before Ira Fred Watson, a Court Reporter, and a Notary Public at Large for the State of Alabama.

Appearances:

Hon. Charles S. Conley and Hon. Martin Garbus for the Plaintiffs.

Hon. Mary Lee Stapp and Hon. Carol Miller for the Defendants.

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[3] **Stipulation.**

It is stipulated and agreed by and between counsel representing the parties that the deposition of Mr. Ruben K. King may be taken before Ira Fred Watson, as Commissioner, at the offices of Mr. King, No. 500, State Admin-

istrative Building, Montgomery, Alabama, on March 9, 1967, at 11:00 a. m., and that all notice and issuance of a commission are waived; and the parties further agree that the submission of said deposition to the witness for reading and signature is waived, the said deposition to have the same force and effect as if full compliance has been had with all laws and rules of court relating to the taking of depositions.

It is further agreed that it shall not be necessary for any objections to be made by counsel to say questions except as to form or leading questions, and that counsel for both Plaintiff and Defendant may make objections and assign grounds at the time and place of trial or at the time the said deposition is offered in evidence or prior thereto.

It is further agreed that notice by the party taking the deposition of the filing of said deposition to any or all other parties is hereby waived.

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[4] **Deposition.**

Whereupon,

RUBEN K. KING,

after first being duly sworn, was examined, and deposed as follows:

Direct Examination,

by Mr. Conley:

Q. Would you state your name, please?

A. Ruben K. King.

Q. And where do you reside?

A. At Alexander City, Alabama.

Q. Where are you employed, Mr. King?

A. I am employed with the State Department of Pensions and Security, Montgomery, Alabama.

Q. What specifically is your commission, sir?

A. Commissioner, State Department of Pensions and Security.

Q. How long have you been with the Department of Pensions and Security?

A. Since January 15, 1963.

Q. Now, Mr. King, can you state the number or the approximate number of persons under your supervision?

A. Direct supervision, or working with the Department throughout the State?

Q. Working with the Department throughout the State.

[5] A. Approximately fifteen hundred.

Q. Approximately fifteen hundred?

A. Yes, sir.

Q. How many persons are under your direct supervision?

A. Here in the State office, I think approximately there are 175.

Q. All right, sir.

A. The rest of them are in the 67 County offices throughout the State.

Q. Now, Mr. King, are you familiar with the Substitute Parent Rule?

A. Yes, sir, I am familiar with it.

Q. Would you explain briefly how this rule was arrived at?

A. When I came down as Commissioner in 1963, I was aware at that time that there was a great deal of controversy. I think the Aid to Dependent Children program is the most controversial, not only here in the State of Alabama, but any other State in the Union. There was a great deal of talk at that time about abolishing the program, period. We were getting a great deal of inquiries from the people throughout the State, as well as members of the Legislature; and so I asked for a complete investigation of this program. A complete investigation of the

program was made. After it was made, it was pretty [6] apparent that there were a great many weaknesses in the program. It pointed out for one thing, the laxity of the non-support laws in this State. We immediately went before the Legislature in regular session, and asked that non-support be made a felony in this State. After that that, it also pointed out that there were many people in and out of the homes who were enjoying the privileges of the husband, but who were not carrying the responsibilities of the home. So, in order to save the whole program, there had to be something done. After conferring with many, many people in this State, we came up with the Substitute Parent policy.

Q. Were public hearings held prior to the adoption of this?

A. No, there were no public hearings held.

Q. And who finally formulated the rule?

A. I finally formulated the rule, with the help of my Department.

Q. Can you tell us the approximate the number of recipients under the child eligible rule?

A. Do you want it prior to the substitute parent policy?

Q. Prior to and subsequent to.

A. In June of 1964, there were 22,373 cases in Aid to Dependent Children. In June of 1964, there were 92,124 [7] recipients: of these, 72,764 were children. In January of 1967, there were 71,228 total number of recipients under the ADC program; of which 56,822 were children.

(Off record discussion.)

Mr. Garbus: I would suggest that we mark as Exhibits 13 and 14, the two documents just referred to by Mr. King.

Q. (By Mr. Garbus) Mr. King, will you describe for the record the first document that you referred to?

A. All right. The first document showing that there were 92,124 recipients under ADC, is referred to as Sta-

tistics, dated June, 1964, State of Alabama, Department of Pensions and Security.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 13.)

The Exhibit showing 71,228 people as the number of recipients in January of 1967, of which 56,822 were children, is shown as Statistics, January, 1967, State of Alabama, Department of Pensions and Security.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 14.)

Q. Mr. King, may we mark as Exhibits 15 and 16, the documents which you have before you, and which I would appreciate if you would describe.

A. All right. Comparative case load data for the [8] months of May, 1964 and June of '64, will be referred to as Exhibit No. 15.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 15.)

Comparative case loads data for the months of December, 1966 and January, 1967, will be referred to as Plaintiff's Exhibit No. 16.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 16.)

Q. (By Mr. Conley) Can you give us a further breakdown on the number of recipients who are Negro and the number who are White?

A. During that particular time?

Q. Yes, sir.

A. I don't know if we have them for these particular months, because we only have, those statistics are only made available, I believe, in January and June of each.

Mr. Garbus: May we mark that document as Plaintiff's Exhibit No. 17.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 17.)

(Off record discussion.)

Witness: Public Assistance cases for December of 1966 classified by Race, will be shown as Plaintiff's Exhibit [8-A] No. 17. Now, you asked a specific question in regard to the number of Negro?

Q. Yes.

A. Are you talking about in our ADC case load, or overall?

Q. ADC case load.

A. In December of 1966, there were a total of 17,157 families in this State. The figure shows that 67.3 per cent were members of the Negro Race, 32.4 per cent were members of the White Race, the other was three tenths of one per cent of other Races. These figures here will also show a breakdown by counties also.

Q. What is the figure then for the overall welfare program?

(Off record discussion.)

A. Total cases receiving public assistance for December of 1966 showed that there were a total of 149,063 in all categories of public assistance; and 56.3 were White; 43.6 per cent were members of the Negro Race; and one-tenth of one per cent were members of other Races.

Q. Can you give us the approximate amount or the average amount of checks received for this program?

A. Will you re-phrase your question? I am not sure that I understand it.

Q. Can you give us an approximate figure as to the amount each family received, first under the ADC program?

[9] Mrs. Stapp: Mr. Conley, do you mean the amount, the total amount of money, or do you mean the individuals?

Mr. Conley: The total amount of money which was received.

The Witness: I don't think that our figures would show that. These documents are going to be in evidence. I don't think that it shows the amount of money that they are getting. These statistical bulletins over here may show something; but I don't think that it is going to show in regard to Race. It will show you what the average payments were.

Q. (By Mr. Conley) Well, what about the average payments then?

A. All right. In June of 1964, the average payment per family was $48.15, or $11.69 per recipient. This was in June of 1964, as shown by Plaintiff's Exhibit No. 13. In Plaintiff's Exhibit No. 14, referring to the amount of payment per family as of January of 1967, shows that the average payment per family was $52.68, $12.72 per recipient.

Q. Have you additional information which would relate to the amount of the average payment received by the Negro as opposed to the White family, a White man?

A. I don't think that we have it broken down. We have the number of recipients, but I don't think that we have it that way. I am not aware of any statistics which [10] would show that.

Q. Have you any statistics to show the number of times in '65 and '66 where the Substitute Parent Rule has been invoked for the purpose of withdrawing coverage?

A. I don't know. I think your figures themselves will show. I would assume that your greatest reduction, Mr. Conley, in the number of recipients and families, were, as a result, of your Substitute Parent policy. I don't know that we have any figures that will show that in particular.

(Off record discussion.)

Mrs. Stapp: Mr. King, this is the only thing that has been done that we know to date on the Substitute Parent policy. This is the only material that we know of that has been done on this policy as such.

Mr. Garbus: We would like to mark that document as Plaintiff's Exhibit No. 18.

(The above-mentioned document, Witness King, was marked as Plaintiff's Exhibit No. 18.)

The Witness: Could we also mark as Plaintiff's Exhibit No. 19, Public Assistance cases for June of 1964, classified by Race?

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 19.)

[11] Q. (By Mr. Conley) Is it my understanding that you don't have any information with respect to the number of cases which would reflect——

A. Well, we have something here which shows Public Assistance cases closed because of change in Agency policy inevitable because of substitute parents. This is July, 1964 to June of 1965.

(Question by Mr. Garbus):—

Q. Can we then mark as Plaintiff's Exhibit No. 20, a document entitled Public Assistance Cases Closed Because of Change in Agency Policy, July, 1964 to June, 1965? I assume, Mr. King, when you are talking about the change in Agency policy in this document, we are talking about implementation application of the substitute father rule, as the last column of that page seems to indicate.

A. That's right.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 20.)

Q. (By Mr. Conley) Have you any additional information which would relate on a county-wide basis the number of withdrawals?

A. Yes, we have it. We have it, but it is for the year of July of '64 to June of 1965. It is marked as Plaintiff's Exhibit No. 20.

Q. (By Mr. Garbus) Mr. King, do you have any statistics which would indicate the total amount that the [12] various programs cost the State of Alabama during 1960, 1961, 1962, 1963, 1964, 1965, 1966, and 1967 to administer the Old Age Pensions program, the Aid to the Blind program, the Aid to Dependent Children program, the Aid to the Children in Foster Care county program, the Aid to the Children in Foster Care State program, the Aid to the Permanently and totally disabled, the temporary aid, the medical assistance to the aged, and the aid to the children——

A. Yes. I don't know if we have it in here, but it would show it in the annual reports; because we can get copies of those annual reports.

(Off record discussion.)

The Witness: We will make available to the Plaintiffs the annual reports for the years which he asks for, which is 1960, 1961, 1962, 1963, 1964, 1965, 1966, and of course '67 will not be available. The annual report for 1967 will not be available until September——

Mr. Garbus: We will mark as Plaintiff's Exhibit No. 21 the document designated as the Annual Report of the Alabama Department of Welfare, which Mrs. Stapp advises me is the most recent Alabama annual report.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 21-A.)

Mr. Garbus: Just mark the exhibit No. 21-A, 21-B, 21-C, and 21-D.

[13] Mr. Garbus: We will mark as Plaintiff's Exhibit No. 22 a document described as Characteristics of Families and Children Receiving Aid to Dependent Children, in March of 1963.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 22.)

We will mark as Exhibit No. 23, a letter from the Secretary of Health, Education and Welfare concerning the Civil Rights hearing held pursuant to Section 602.

(The document referred to, Witness King, was marked as Plaintiff's Exhibit No. 23.)

(Off record discussion.)

The Witness: I will also want marked as the Defendant's Exhibit my letter to Senator Long the other day.

Mr. Garbus: If you will let me see it, I will even mark it as a Plaintiff's Exhibit.

The Witness: Make it available to them. I would like to have my answer to his accusations.

Q. Mr. Garbus: Now, Mr. King, you mentioned that the entire welfare program, when you came into office in January of 1963 was, quote "most controversial," unquote. What did you mean by that?

A. I didn't say the entire program. If I said it, I didn't mean to. I said that the Aid to Dependent Children [14] was a very controversial program.

Q. Controversial in what way?

A. Controversial to the effect that there were many people on the Welfare rolls, justly or unjustly so, and there was a great deal of talk about it by the people of this State; there was talk particularly about the ADC program, abolishing it.

Q. Was there a feeling that the program was too expensive for the State in the manner in which it was being conducted?

A. I don't think that it was that particularly, because it is not an expensive program as compared to say, for example, our Old Age Pension program, which was 75 per cent of the total expenditures.

Q. Roughly what were the total expenditures of the ADC program.

A. I don't have that figure right here with me——

(Off record discussion.)

The Witness: Aid to Dependent Children is 8.4 per cent.

Q. That's the cost for——

A. Aid to Dependent Children.

Q. ——the administration of the program, the checks that are paid out?

A. That is not the cost of the administration. The [15] administration of the overall whole welfare program is 6.9 per cent. This is, in our Aid to Dependent Children, 8.4 per cent of the total 100 per cent. Administration, it still shows the administration being 6.9 per cent; Old Age Pensions, 74.6 per cent. I am referring to a chart here on Page 11 of Plaintiff's Exhibit No. 21-A.

Q. So that the controversy which arose in the early part of 1963 did not have to do so much—as I understand your testimony—with the cost of the program, but with other aspects of the program; is that right?

A. Other aspects not only here, but if you will also check, Mr. Garbus, it was also a very controversial program not only here but in Washington, D. C. and in all other areas of this country, too. It has always been a very controversial program, much more so than any of your other programs.

Q. Had the program been controversial before you came into office?

A. Oh, yes. This has been a controversial program in this State for quite some time: in fact, there have been

many bills introduced in the Legislature of this State which would limit the number of illegitimate children that could draw under this particular program.

Q. Was the major concern then, in so far as the program was concerned was that—at least in the eyes of [16] certain people, or a good segment of the population —that it appeared to promote illegitimacy?

A. Well, yes, sir, that was——

Q. Would you say that that was the primary dissatisfaction with the program?

A. Oh, I think that that would be the major factor, yes, sir.

Q. And when you say that it would promote illegitimacy, you are talking about Negro illegitimacy, or White illegitimacy?

A. We are talking about both.

Q. Do you know what the illegitimacy rates were during the years 1960, 1961, 1962, 1963, 1964, 1965 and 1966?

A. I don't think that that was ever made available until our complete study: and I believe it showed, our study showed something like, something like 26 per cent. The illegitimacy rate as related to the total was only approximately 26 per cent of the children illegitimacy: but in regard to Races, I think we have those figures available. It came out in the study that we made.

Q. May I have a copy of that study?

A. If we have it here.

(Off record discussion.)

The Witness: Here's the legitimacy status of children in Plaintiff's Exhibit No. 22. [17] It shows that as of March, 1963 there were 71,753 children receiving aid under our ADC program: of this, 73.7 were legitimate, and 26.3 were illegitimate.

(Off record discussion.)

Q. (By Mr. Garbus) Do you, Mr. King, have similar statistics for the years of 1964, 1965, 1966 and 1967?

A. I don't believe that we have done any study since that time on them.

Q. Mr. King, do you know what portion of the illegitimate children, set forth in March, 1963 study, were receiving ADC Aid?

A. Well, all of these children were receiving aid here.

Q. Do you know what percentage?

A. No.

Q. Of the——

A. It could be figured out, though, from your figures here.

Q. Do you know what percentage of the Negro illegitimate children that were in the country that were receiving aid in 1963; and do you know what percentage of the illegitimate White children were receiving aid in 1963?

A. Are you talking about in the country, or in the State of Alabama?

[18] Q. In the State of Alabama.

A. These are the only figures that we have, and this came as a result of our study. So whatever the figures there will show; and of course we have percentages in regard to the total number.

Q. Mr. King, you indicated that the primary reason for the concern on behalf of the constitutents of Alabama —and you indicate that perhaps throughout the country —with the ADC program, was that it was promoting illegitimacy. Is it your feeling that that was the primary purpose behind the enactment and application of the Substitute Parent plan that Alabama now has?

A. It was one of the factors: but, of course, the other factor was that we also have a resource law which says that any available resources available to a family must be taken into consideration. It all goes back to what

I had said earlier, it shows a great laxity on the non-support laws. It's like I have said so many times in speeches throughout this State that if a man wants to play, then let him pay; and if he has the pleasures of a husband, then he ought to have the responsibilities of a husband.

Q. When you said pleasures of a husband, do you mean sexual relationship?

A. Yes, I am talking about that.

Q. And when you say privileges of a husband, do you [19] mean sexual relationship?

A. Yes; but not only that, but the other privileges that a husband enjoys; that is, the company of the children, and the company of the person, as well as any privileges that a person in such circumstances would enjoy.

Q. And when you use the word "cohabitation" in the Substitute Parent policy, were you equating that with sexual relationship?

A. Well, are you talking about cohabitation?

Q. Yes.

A. I'll refer back to Black's Dictionary. The term, cohabitation, we took from Black's Dictionary.

Q. And in your understanding of that term, does it mean sexual relationship?

A. Yes, it means sexual relationship, in and out of the home.

Mr. Garbus: Off the record.

(Off record discussion.)

Mr. Garbus: Back on the record.

Q. (By Mr. Garbus) Mr. King, were you appointed by Governor Wallace, formerly?

A. No, sir. I was appointed by the State Board.

Q. And who was the State Board appointed by?

A. The State Board was appointed by the Governor,

but not by Governor Wallace. It was appointed by prior [20] Governors. At the time I came here in January of 1963, every appointee on the Board at that time had been appointed either by Governor Folsom or by Governor Patterson.

Q. Had there been a Substitute Parent policy before?

A. No, sir.

Q. Before you came into office?

A. No, sir, there had not been.

Q. Had there been a Suitable Home policy before you came into office?

A. Yes, there had been a Suitable Home policy before.

Q. Was that Suitable Home policy in effect at the time you came into office?

A. Yes, it was.

Q. Is the Suitable Home policy presently in effect?

A. Yes.

Mrs. Stapp: I am going to object to that question, if I may. I think he previously testified that—well, let's go off the record.

(Off record discussion.)

Mr. Garbus: Back on the record, please.

Q. (By Mr. Garbus) As I understand your testimony off the record, Mr. King, the present Substitute Parent policy includes what had been your Suitable Home policy as well as several new provisions; is that right?

[21] A. That is correct, sir.

Q. When for the first time was a Substitute Parent policy suggested to you: or when for the first time you suggested it to somebody else?

A. Well, as I stated earlier, when I came down as Commissioner in 1963, I asked for a complete study of the Aid to Dependent Children program. As soon as the study was completed, we then started talking about the Substitute Parent policy.

Q. And the purpose of the Substitute Parent policy at that time, as I understand, it was to cut down the illegitimacy rates of the people on the welfare rolls; is that right?

A. Not necessarily that. That was only one factor. I don't say that that was the major factor. I think the major factor was that we were taking a look at our resources, and here were resources that I considered to be legitimate resources that were not being used.

Q. What percentage of the State's resources were being used to support illegitimate children on the ADC rolls when you came into office?

A. I don't know that I have those figures. I would say that the annual report for 1962 would show the per cent of payments into ADC; but, of course, as it was pointed out in our study, it only shows that 26 per cent of the [22] children, of all the children, were illegitimate.

Q. And so that certainly less than 26 per cent of your total ADC program was involved when you came into office; is that right?

A. Well, if you are referring to the support of illegitimate children, I would say that. Of course, at that time, we were not even aware of the percentages, because that's what the study itself brought out.

Q. What are the percentages for the years of 1964, 1965, 1966, and 1967 with respect to the cost to the State for the illegitimate children?

A. Well, we will have to go back and take a look at the annual reports. Those figures would be available in your exhibits for those years in your annual reports. I don't have them before me.

Q. Do you have any memoranda between you and any other members of your office, or the Governor, or the Legislature, or the offices of the Department of Health, Education and Welfare prior to your promulgation of the July, 1964 Substitute Parent policy?

A. I'm not sure. In fact, I am sure that we don't have; but, as I stated to you, I was aware, I was an Attorney before I came here, and I was also a Judge, and I was aware of the problem, aware of the criticism. When I came here in January, there was a special session of the [23] Legislature called. At that time I started talking with numerous members of the Legislature; and as a result, there was a great feeling on my part that this program was going to be abolished.

Q. And do you have a file concerning any letters or complaints made to you or your office concerning the ADC program that was in existence when you came into office?

A. I don't know that we have those files just particularly for that, but I am sure that if we go through correspondence here, that we could show you thousands of letters criticising our ADC program of the State, as well as some other programs, too.

Q. Were there any letters or correspondence exchanged between you and the then Governor——

A. No.

Q. ——Concerning the ADC program?

A. No, sir. I discussed the matter with the Governor, because he was the Chairman of the Board.

Q. Was this March, 1963 study made available to you prior to the time you formulated the Substitute Parent policy?

A. It certainly was, yes, sir.

Q. Was the Substitute Parent policy adopted in 1964 the same, in the same form, as when you originally drew it?

[24] A. Well, the policy today is not the same as when we drew it in 1964, because we have made certain changes on recommendations of the Department of Health, Education and Welfare.

Q. Had you made any prior drafts of the policy before you put it into effect?

A. I don't know whether we made any prior drafts. I am sure that we have made drafts.

Q. Do you have a copy of any of those drafts?

A. The only copy that we have is the final draft that went out.

Q. Do you at some time go to Washington to discuss the Substitute Parent policy with representatives of the Department of Health, Education and Welfare?

A. We have discussed it. I don't know whether we talked about it in Washington, or talked about it here, or in Atlanta; but the policy, the policy was discussed with officials.

Q. You discussed it with Mr. Perry and Mr. Steininger?

A. I don't think I discussed it with Fred, Fred Steininger; because I don't believe Fred was in Washington at the time. I think that he was still in Indiana.

Mrs. Stapp: Let's get off the record for a little while.

(Off record discussion.)

[25] Mr. Garbus: Let's get back on the record.

Q. (By Mr. Garbus) Mr. King, did you, Mr. Steininger or Mr. Perry exchange any letters concerning the Substitute Parent policy?

A. I can't recall any; but I am sure that we have. There have been exchanges of letters.

Mr. Garbus: Off record, please.

(Off record discussion.)

Mr. Garbus: Back on the record.

The Witness: Well, in response to your question, I am sure that there has been correspondence in there. I mean, whatever we have got, it will be made available to you.

Mr. Garbus: Well, I would like to see it. Maybe we can see it before we start again tomorrow.

Mrs. Stapp: All right.

Q. (By Mr. Garbus) Mr. King, does your office maintain a file concerning the preparation and submission of

the Suitable Home policy that had been in existence in Alabama, as I understand it, from 1949 until immediately prior to the Substitute Parent policy of 1964?

(Off record discussion.)

(Back on record.)

The Witness: For the record, I still want you to object.

[26] Mrs. Stapp: We object to that question.

The Witness: And if a Judge says submit it, then we will do it. We have got thousands of records in this Department; and if we are going to be required to produce all the records in the Welfare Department, I am just going to get a transfer truck and take them down there and let Judge Johnson sort them out.

I asked my attorneys to object to the relevancy of that question; and if we are going to be required to take every record of the Welfare Department down to the Court House, then I am going to get a transfer truck and let Judge Johnson sort them out.

Q. (By Mr. Garbus) Mr. King, do your files indicate the kind of information that was used to declare individuals ineligible because of the Substitute Father rule during the first month of the application of the Substitute Parent rule?

Mrs. Stapp: Now what was that question?

Mr. Garbus: Off the record, please.

(Off record discussion.)

Mr. Garbus: Back on the record.

The Witness: I don't think that we would have it broken down; but we do, Mr. Garbus, have it broken down in regard to the application of the Substitute Parent policy itself.

[27] Q. (By Mr. Garbus) Do you have it broken down further, Mr. King?

A. No, sir, we do not have it broken down further.

Q. And so as I understand your testimony, if I were to look into your files to determine under which provision of the Substitute Father rule of a particular person who had been denied aid, say in July of 1964, I could not find that information; is that correct?

A. No, sir. As far as I know, that is not available. Now we do have in regard to being removed because of the policy itself, but not a particular segment of the policy.

Q. But you don't know, for example, of the 516 cases closed in July of 1964, how many of those cases were closed on the ground that a substitute parent was a person who did not cohabit in the home, but had the privileges of a husband, as you say, outside of the home?

A. No, sir. As far as I know, that information is not available.

Mr. Garbus: Off the record, please.

(Off record discussion.)

Mr. Garbus: Back on the record. Mr. Reporter, will you read back the previous question?

(The previous question was read back by the Reporter.)

Q. (By Mr. Garbus) Will you please answer?

[28] A. As far as I know, the information is not available, Mr. Garbus.

Q. The only way that that could be found out is if we were to make an independent investigation of each case closed because of the Substitute Parent rule; is that right?

A. That is correct.

Q. Would the files themselves have that information?

A. Yes, the files themselves, each individual file would have it; yes.

Q. Mr. King, when a file is closed because of the application of the Substitute Parent rule, is the file sent from the County office to the main office?

A. It still remains in the County. But of course for our own central file, I think that we will get a notation that this particular case has been closed. I think that our files here would show it; but it may not be broken down as much as you are asking for.

Q. Now, Mr. King, the Substitute Parent regulation, which we have marked as Exhibit 9, the complaint, contains the following statement; namely, that aid may be denied where the substitute parent "though not living in the home regularly, he visits frequently for the purposes of cohabiting with the child's natural or adopted mother." Now, how often is "frequently?"

[29] A. Well, I don't know. You are asking me a question I really don't know.

Q. Well, you drafted the Substitute Father rule——

A. Yes, sir, I drafted it, along with other members of my staff; because, as I say, I have got fifteen hundred employees, and as Commissioner of the Department, it is impossible for me—although the work is done under my direction—it is impossible for me to supervise everything that goes on in the Department.

Q. Well, in your terms then, sir does the term "frequently" mean once a year, once every two years, or more than that?

A. I think that it would all depend under the circumstances. I think that each case would have to stand on its own.

Q. In other words, some circumstances frequently could mean once a year?

A. No, sir, I would not consider that to be frequently at all.

Q. What would you consider to be frequently?

A. I would consider to be frequently at least once a week.

Q. And if the case was closed because someone had visited a recipient less than once a week, then that case would have been erroneously closed; is that right?

[30] A. Well, I would think that anything less than once a week would not be considered by me as frequent.

Q. Do you know whether the case workers consider once a week as frequent?

A. I don't know. We sent out, we have sent out clarifying material on this. I don't know that we have ever gotten down to specifically saying what the word "frequently" is; because the word frequent, as you know, can have many, many interpretations.

Q. Do you have any material which you sent out interpreting that particular clause of the Substitute Parent regulation?

A. I don't know whether we do or not. Let me ask Miss Bryan. For the record, I think this policy, the people who have been removed, I think that the policy has been interpreted very conservatively.

Q. When you say interpreted conservatively, do you mean——

A. I think that the Welfare workers in this State are people with a great deal of intelligence; and I think that any policy that is promulgated by us here, and given to the counties, is carried out in a conservative manner. There have never been any intentions on the part of me as Commissioner, or any of my workers to purposely remove people that we considered to be eligible for public [31] assistance. There has never been any head hunting on our part. There ought to be more of it; and if there were, in the whole country, I think that people would be more receptive to the welfare program than what they are right now.

Q. When you use the term "regularly" in the clause to that agreement, what did you mean by that term?

Mrs. Stapp: You are looking at the policy itself?

Mr. Garbus: Yes. It is the next to Exhibit "A" of the agreement. It is Exhibit "A" to the complaint.

The Witness: Now, would you ask the question again, Mr. Garbus?

Mr. Garbus: Sir, could you re-read the question?

(The Reporter re-read the question.)

The Witness: Well, that is what I am trying to find. Where is the word "regularly" used at here, and in what paragraph are you talking about? Where is the word, "regularly" used at, Mr. Garbus?

Mr. Garbus: Let's go off the record.

(Off record discussion.)

Mr. Garbus: All right, back on the record.

The Witness: Well, if we are talking about regularly, about living in the home regularly, we are talking about being there most of the time when he is not [32] working. Now, if you want to break it down to where we are talking about thirty per cent, twenty per cent, or sixty per cent, I don't know. I say, I think each case, I think each case under the varying circumstances, would have to stand on its own.

Q. And your Department hasn't formulated a specific policy for what is regularly——

A. For what is the word, "regularly?"

Q. Yes.

A. No, sir.

Q. What is frequently?

A. Nor what is frequently. . . . I don't think that there has been in regard to the word "frequently" or the word "regularly."

Q. You have already established for the language for the, quote, "purpose of cohabitating" end quote, means sexual relationship; is that right?

A. Yes, sir.

Mr. Stapp: I am going to object to this; because he said that it included all of the meanings that the Black Law Dictionary gave: in other words, that would be one of them.

The Witness: It includes cohabitation.

Q. (By Mr. Garbus) What else does it include?

A. Well, as I say, it includes cohabitation not only in the home, but out of the home.

[33] (Off record discussion.)

Q. With respect to allegation in paragraph three——

A. Let me say this for the record, too, Mr. Garbus:—We have got a regulation here just like the Federal Government. If you get down to the interpretation of particular words, such as the word frequent or such as the word regular, then I think, with the directives that they send down, that they expect any of these words to be interpreted with reasonableness: and I think that when we talk about the word frequent, or when we talk about the word regular, we are talking about something, that I think each individual case has on its own so to stand, has to stand on its own; and where one case might be considered frequent or regular, it may not be considered frequent or regular in the other circumstances.

Q. What are the other variables?

A. Well, for example, we may have a situation of a who is a traveling salesman; although he lives, say in the city of Montgomery, his job carries him away from the city most of the time during the week. And then if the man comes home on Friday night, and he stays with a woman all week end, then I would consider that to be frequent or regular. Whereas another situation might have a man who is not a salesman.

Q. How about a man who is a salesman and he comes [34] into Montgomery one night a week and stays with the woman, is that regularly or frequently?

A. I told you a few minutes ago that in my opinion that if he was with a woman at least once a week, and he went to the home and lived in the home, or there were circumstances there that would lead a reasonable person to think that the man was having the privileges of a

husband:—And there may be situations where a man comes in once a week and there may not be such a relationship there, that would lead such a person to think that he had the responsibility of a husband.

Q. How about a traveling salesman that comes in once a month then and sleeps with a family, would that be sufficient?

A. I don't think it would be; no, sir, I sure don't. And I would hate, I couldn't tell you truthfully whether or not there has been anyone cut off of the welfare program in this State because of it; but if they have been, then I would say that the policy has not been interpreted with reasonableness.

Q. Now, with respect to the third clause of the Substitute Parent policy, the policy states, "He does not frequent the home, but cohabits with the child's natural or adopted mother elsewhere," end quote. Now, with the term cohabit as used there, does it have any meaning other [35] than sexual relationship?

Q. Well, I think, I think that when you get out of the home, that the policy would be interpreted more from a standpoint of sexual relationship than it would be if they were living in the home.

Q. So in these in so far as conduct outside of the home is concerned about, the factor which would require the implementation of the Substitute Parent policy would be sexual relationship?

A. That would be one of them——

Q. What are the other relationships?

A. I think it could be others.

Q. What are the other factors?

A. I don't know what some of the other factors would be. As I say, each individual case would stand on its own. I think that you would have to take the whole thing and take a look at the case record, and from that try to reach a reasonable solution as to whether or not—Well, cer-

tainly, I think if there was no cohabitation outside of the home, that it would be insufficient to remove any one.

Q. When you say no cohabitation, you mean no sexual relation——

A. In that particular respect, I mean sexual relationship.

[36] Q. And so if a man and a woman went out for one evening once a month, but did not have a sexual relationship, and he did not live in the home——.

A. Well, I will say that if they went out once a month and they had sexual relationship out of the home, that this policy right here ought not to be interpreted as that; and if I, as Commissioner, is shown that it has ever been interpreted like that, I will immediately see that the people are put back on the welfare rolls. These policies, these policies, in my opinion, and our instructions have been that these policies be interpreted with reasonableness.

Q. With respect to the—withdraw that. Do you know how many cases that were closed because of a substitute parent relationship, were subsequently re-opened, and assistance given upon a showing that the relationship terminated?

A. I don't know that we have figures, but I know that there have been many, many of them, because I have ruled personally on some of the cases where there was some controversy and where it had been brought to our attention either through some of your civil rights organizations, or by members of the Legislature. When these cases are called to my attention, I of course naturally look into them. Many of these things are done routinely.

[37] Q. But as I understand your testimony, you have no information concerning the number of cases in which a mother denied aid because of the implementation of the Substitute Parent policy has subsequently re-applied?

A. No, I don't. I don't guess we have any figures; but I know that all of the people who were removed, as a result of this policy, were notified, and are notified as a

matter of policy, that they can be put back on the welfare rolls provided they show that the relationship has been broken.

Q. If they show that the relationship has been broken?

A. That's right.

Q. How were they notified of this?

A. They were notified by letter.

Q. And does this letter go out immediately after the person is cut off?

A. Yes, it does. I think that we have copies of it available, too.

Q. Does the case worker contact the person who has been cut off, and discuss with the person who has been cut off the manner in which the person can be restored to aid?

A. I don't know. I know that they are notified, and then I know that we sent letters to all of the people. This was one of the things that the Federal Government [38] asked us to do, was to notify these people who had been cut off; and I believe that this came about as a result of our discussion with Fred Steininger. I believe that that was one of the things that we agreed to do.

Mr. Garbus: Mrs. Stapp, will you furnish me with that letter?

Mrs. Stapp: The letter that the worker sends, or the State letter, the administrative letter?

Mr. Garbus: Yes.

Mrs. Stapp: All right.

Q. (By Mr. Garbus) So it is fair to say, Mr. King, that so far as you know, there are no cases where a person who had been cut off from aid, had ever submitted evidence showing that the relationship had been discontinued, with the result that that person was restored to aid?

A. Yes, I know that there are some cases. I know that there are some cases, because I have been asked to rule on the cases myself.

Q. I am not talking now about appeals——

A. I am not talking about appealed cases. I am talking about cases where the members of the NAACP or some of the civil rights organizations called it to my attention personally: I have asked for the files: I have looked at the files myself. There have been cases.

Q. Were there any cases where some organization had [39] not called it to your attention, where a person on her own has obtained the evidence necessary to show the relationship had been discontinued?

A. Yes, there are some; but I don't know if we have any statistics on it, but I know that there are cases of re-instatement.

Q. Do you have any idea what percentage of the cases closed——

A. Have been re-instated?

Q. ——Have been re-opened or re-instated because the recipient has been able to show that the relationship had been discontinued?

A. I don't have any statistics to that effect.

(Off record discussion.)

Mr. Garbus: Back on the record.

Q. (By Mr. Garbus) Do you know, Mr. King, in how many cases affidavits were submitted by law enforcement officials, ministers, neighbors, or grocers in the attempt of the recipient to show that the relationship had been discontinued?

A. No, sir, I don't have any breakdown on them; but I know that there have been some probably in every category that you talked about. I know that these people have been notified and how to get back on, and our workers are also trying to help them get back on.

[40] Q. Do you know of any appeals that were taken from the denial of aid because of the existence of a substitute father?

A. I think that we have got—I know of one, it is Sylvester Smith, Mrs. Sylvester Smith was one——

Mrs. Stapp: She never took an appeal.

The Witness: Oh, I thought that there was an appeal.

Q. (By Mr. Garbus) Other than Mrs. Sylvester Smith, who never took an appeal, do you know of anyone else who had ever been cut off because——

A. I think, I think that there have been some cases before me on appeal. I can't recall them right now.

Q. How many would you say?

A. There would be very few, but I know that there have been some cases.

Q. By very few, you mean more or less than three?

A. Oh, no. I would say probably less than twenty-five.

Q. Now, are all the appeals that are taken from the denial of aid——

A. Our record, our records certainly should show something about the appeals coming up here. I think, I think that I would like for you to give him that information, and to show any records that we have got within reasonableness. [41] We have no objection to your seeing them.

Mr. Garbus: Can we leave a space in the deposition then where Mr. King or Mrs. Stapp will place the number of appeals that were taken since July, 1964 because of the implementation of the Substitute Parent policy——

The Witness: And the results of the appeals.

Mr. Garbus: ——And the results of the appeals from the denial of aid because of the policy?

Q. (By Mr. Garbus) Now, Mr. King, the substitute for the regulation in effect now differs in one respect, does it not?

A. From what the original?

Q. From the original?

A. Yes, it does. There have been several of them.

Q. Could you just briefly indicate which ways the substitute for the regulation differs?

A. Well, to be honest and frank about it, Mr. Garbus, the Federal Government has never liked the policy; but they have never had enough guts—and I say this for the

record—the Federal Government has never had enough guts themselves to define what a substitute parent policy would be. They were about ready to until Senator Byrd's investigation of the ADC problem in Washington, D. C.; and after that, they have been afraid to do it. We have [42] asked the Federal Government on numerous occasions to give us an interpretation of the substitute parent, and they would never give us a definition of it; and as a result, as I say, they were dissatisfied with our interpretation; and we went to Washington and talked with them, and as a result—I know one of the things that we have done is to notify these people, because to begin with they were not notified under our original policy; and so then we notified the people.

Q. Is it your understanding that the same dissatisfaction with your policy as expressed in the letter of Mr. Steininger which was dated December 11, 1964, are the same reasons for the dissatisfaction of your present policy? Off the record, I will show you the letter.

(Off record discussion.)

Mr. Garbus: Let's go back on the record. Will the Reporter please read back the last question?

(The last question was read back by the Reporter.)

Mr. Garbus: Thank you.

Mrs. Stapp: We object to the question.

Mr. Garbus: Well, let's strike the whole question and let me re-phrase it.

Q. (By Mr. Garbus) Mr. King, is it your understanding, based on your expertise in the area and your familiarity with the Substitute Parent policy of 1964 and the present [43] Substitute Parent policy, that the portions which were objected to in the December 11, 1964 letter of Mr. Steininger are presently embodied in the present Substitute Parent policy?

A. I don't know that I can answer that question.

Mrs. Stapp: I believe that you are calling for his expertise in his field, which is not what goes on in Mr. Steininger's mind or in Dr. Winston's mind; and I believe that question still for what goes on in their mental operations——

Mr. Garbus: I am only asking for what goes on in Mr. King's mind.

The Witness: Well, you are asking for a conclusion on my part.

Mr. Garbus: Yes.

The Witness: And I have no conclusion.

Q. (By Mr. Garbus) In other words, as far as you are concerned, you don't know why the, as I understand it, Substitute Parent policy that you have presently submitted has not been approved; is that right?

A. I don't know that it has not: and if you ask me why any objection, I know of no objections.

Q. Do you understand that the Substitute Parent policy has been approved?

A. No.

[44] Q. Do you know of any reason why it hasn't been approved?

A. No.

Q. You have no idea at all as to why it hasn't been approved?

A. Other than, other than correspondence that we have already shown——

Q. What is your understanding of why the policy has not yet been approved?

A. I have no understanding as to why. I can't understand why it hasn't been approved. We submitted it for approval.

(Off record discussion.)

Mr. Garbus: Back on the record. All right, Mr. King.

The Witness: Let's put it on record. I don't know why

the policy hasn't been approved, because I think that it is a very good policy.

Q. (By Mr. Garbus) And after reading the letters of Mr. Steininger and Mr. Perry that were addressed to you since 1964, you still have no idea what the basis is for their objection to the policy; is that right?

A. Because those letters have never, we have never got an official letter from the Federal Government denying this policy, and the reason for the denial. We have gotten [45] letters from the Federal Government pointing out to us certain objections to the policy.

Q. And so you understand at least the Federal Government's objections to the policy?

A. Oh, yes, they are objecting to it.

Q. And the objections to the policy that they said in 1964, do they also apply to the policy that you presently have?

A. I don't know, I don't know that. I think that that would call for a conclusion on my part.

Q. Have you ever gotten a letter from the Government in which it said that the policy was out of conformity with the Social Security Act?

A. I may have, but I don't recall that we have gotten one. Do you have such a letter in your files? Mr. Garbus, there are tons of mail that come across this desk; and I am going to be honest when I say, I don't know, and I don't recall such a one positively.

(Off record discussion.)

Mr. Garbus: Let's get back on the record.

Q. (By Mr. Garbus) Is it your understanding then, Mr. King, that at this point that you are waiting for the Government to make some kind of a decision on the Substitute Parent policies that you have submitted?

A. Well, we have been waiting now for over two years, [46] two and a half years, for them to make a decision;

and they have had ample opportunities, and we have discussed it with them on several different occasions.

Q. Would it change your testimony if I were to tell you that Mr. Steininger testified that they were waiting for you to submit a Substitute Parent policy that complied with the Social Security Act?

A. As far as I know, I have never gotten a letter from Mr. Steininger to that effect that I had to. We have submitted a policy to them. They had a right to either deny it or to approve it, and they have never done either one. Now if we had gotten an official denial from them, then we would have had to in order to continue to get Federal funds, come back with a policy that would be in conformity with what they interpret the Social Security Act, or we would have had the right to go into court and ask an injunction prohibiting their interpretation; but we have never gotten a denial; and until such time as we have gotten a denial, then we operated under what we considered to be a valid policy, and which we still consider to be a valid policy.

Q. The records indicate that specified number of substitute parent cases were closed during the first year of the policy. By that, I am referring to Plaintiff's Exhibit No. 20. Do you have any breakdown as to the race [47] of the people——

A. No, sir, we do not.

Q. ——Who apparently—who are Negro?

A. The individual cases I am sure would show it, but our statistics do not show it——

Q. Do your county——

A. ——I would assume, I would assume that in as much as some 67 per cent of our ADC cases are Negroes, I would assume that most of them are Negroes.

Q. But do you what percentage—Withdraw that. Now, Subdivision Three of the Substitute Father regulation states, quote, "He does not frequent the home, but cohabits with the child's natural or adopted mother else-

where," end quote. Is it your understanding that by his not frequenting the home, we are referring to someone who never comes into the home?

A. (No response.)

Mrs. Stapp: Would you state that question again?

The Witness: Well, let me find what he is talking about.

Mrs. Stapp: See page 24.

(Off record discussion.)

Mr. Garbus: You used frequently twice, and I just wanted to make sure in which way it was being used.

The Witness: Well, of course, as I said to [48] begin with, the word cohabitation, in going back to Black's dictionary's definition, I think refers to not only relationship in the home, but out of the home.

Q. (By Mr. Garbus) I am not now referring to the definition of the term cohabitation, I am referring to the——

A. The application of the substitute policy could be applied in those cases in some instances where the man does not go to the home.

Q. In other words, it could be applied where the man never visited the home——

A. That's correct.

Q. ——Nor ever seen the children?

A. That's correct, sir.

Q. Is that portion of the Substitute Father regulation the same as the Suitable Home provision that you had in your law prior to 1962?

Mrs. Stapp: Off the record, please.

(Discussion off the record.)

Mr. Garbus: Back on the record.

Q. (By Mr. Garbus) Mr. King—Well, now where were we? Mr. Reporter, will you please read back the previous question?

(The previous question was read back by the Reporter.)

[49] Q. (By Mr. Garbus) What is your answer?

A. No.

Q. Now, Mr. King, I show you Table No. 2 on Plaintiff's Exhibit No. 22, which has a breakdown of the status of the father with respect to eligibility of the children for ADC, and the document has a racial breakdown with respect to those families that were on ADC where the father was divorced, separated, or separated without a court's decree, deserting, not married to the mother, in prison, or absent for another reason, and I ask you whether you have those same statistics for any period of time since the implementation and application of the Substitute Parent rule?

A. No, sir.

Q. Now, Mr. King, I show you a letter dated September 11, 1964, which purports to be your letter to Mr. Perry, the original copy of which had been certified as an exhibit in the examination of Mr. Steininger in the presence of Mrs. Stapp; and I ask you to read it.

A. Read the letter verbatim?

Q. No, not out loud, but just to yourself.

A. All right, sir.

(The witness examines same.)

Q. Mr. King, I quote the sentence, "Furthermore it appears that the Department of Health, Education and [50] Welfare believes that aid should be given to a family even though the relationship between the mother and a substitute father is unbroken," end quote. Is it your interpretation of the rule that if a man cohabits with a woman, and then does not see her again for three or four months, that relationship is unbroken?

A. It would be my interpretation that if a man, as I stated earlier, if man does not see a woman at least once a week, in my opinion, in my opinion it is broken.

Q. So that if a man sees a woman once a week, and

doesn't see her for the third and fourth weeks, in your opinion that relationship would have been broken——

A. I don't think that it would be frequently or regularly. I don't think that it is frequently or regularly.

Q. And that the term "unbroken" and "frequently" and "regularly" as used in the statute, has the same meaning to you; is that right?

A. It could be, yes.

Q. Now in your letter of December 16, 1964, to Mr. Steininger, you indicate that the proofs have been made more reasonable which the mother must present to prove discontinuance of relationship; will you please tell me in what way the rule was changed?

A. For the record, let Miss Bryan answer the [51] question for me.

(Off record discussion.)

Mr. Garbus: Let's get back on the record.

Mrs. Stapp: Will the Reporter please read back the previous question?

(The Reporter read back the previous question.)

Mr. Garbus: All right, if you want, we can let this lady testify, and that can be your answer.

The Witness: All right. For the record let her answer the question for me. Mr. Reporter, this is Miss Elizabeth Bryan, Bureau Director of Public Assistance, State Department of Pensions and Security.

Miss Elizabeth Bryan: What we attempted to do was to help the mother secure the information that she would need in order to let the Department know whether the relationship is broken or not. In an earlier interpretation, we had said that the proof was entirely with the mother: and now we have said, that it was the worker's responsibility to help the mother. Well, we also said that she could have thirty days before the case was terminated, or before the application was rejected, with another

thirty days if it took that long to establish whether the relationship was broken or not. Originally if we had found that the relationship was unbroken, we terminated the case. We told them about this, but we terminated [52] the case.

Mr. Garbus: In what way was the worker to help the woman who had been cut off?

Miss Bryan: Well, they would help her to know where the man is at this time; and if we can help you to establish through any source where he is at this time, if he is living at another address, if he is married again—sometimes they don't know these things. Maybe they haven't seen him, and they just don't know. So if he has moved to another address, or is married, or happened to have gone to some institution: these are some of the things that the worker helps the mother to establish. Also——

Mr. Garbus: How would you help to establish them?

Miss Bryan: Because sometimes they just said that the person is gone, and we don't know. We said that this may be some of the reasons that you could show why the relationship is broken. We also would say to her, "Do you think that your minister could help you to know where the person is, or a member of your family would know where he is?" These are the things that they try to help the mother with.

Mr. Garbus: Other than the conversation that you would have, was there any other help extended?

[53] A. The worker would go to these people if they wanted her to. I think that I should point out another factor, too. Before an application was rejected or a case was closed, the worker would talk with the mother about the reasons for closing the case, and explain to her that she had the right to come back and apply at any time that she wished to do so.

Mr. Garbus: Mr. Conley, do you have any questions?

Mr. Conley: I have a couple of questions.

Q. (By Mr. Conley) Is there a committee or a supervisor who has the authority to review an immediate case which is withdrawn by a case worker?

A. (The Witness) I don't know whether there is a supervisor, but I am sure, for example, we have, the most skilled workers that we in the Welfare Department in this State are assigned to the ADC caseload. When I came here as Commissioner, Mr. Conley, the average case load in ADC was over two hundred per worker. It is now down to sixty. We have placed our most skilled workers in our ADC category; and then, of course, we have supervisors, we have welfare supervisors that are assigned to these offices; and I am sure that these cases are reviewed by a supervisor, or by the Director, which she—in some counties I don't think we have enough workers, haven't been able to hire what we would call a welfare supervisor; [54] and in those cases the County Director would supervise and study the record; but the records, before a person is terminated, the record would have to be approved by either a supervisor or by a Director.

(Off the record discussion.)

(Back on the record.)

The Witness: In addition, we have a unit within the Department that is our quality control unit, who also takes a look at the records, a certain percentage of the records, as well as our field supervisors who have certain responsibilities in certain counties, and they also go; and not only that, at your meetings, at the meetings that they have with your county boards, they also bring up the people who have been terminated, as well as those people who have been put on the welfare rolls.

Q. What I was trying to get at was the possibility that internally the Department itself could make a re-

view; and if the Department was not satisfied with the determination of a case worker, such a recipient could be placed back on the rolls?

A. Yes, if our quality control unit or a field worker is of the opinion that there has been error, the people can be placed back on.

Q. Do you have any statistics as to the number of times that this has occurred?

[55] A. No, I don't have any statistics. I think that you could probably get more information from Miss Mildred Beale when you take her deposition. She is head of the Bureau of Field Service, and she has primary responsibility of the Quality Control Unit and the Field Work Supervisors who go out into the field.

Q. When financial aid is withdrawn in an ADC type situation, is there any other kind of assistance which is available, especially where there are children of tender years?

A. No, sir, we do not have a general assistance program in the State.

Q. Is it considered by your Department, if the average amount of income is $52.00, as is provided by the State, is this considered adequate?

A. No. It is considered by me to be very inadequate, and this has been a primary concern of mine ever since I have been Commissioner. In fact we have raised the percentages. When I came here, we were only paying 38 per cent of need. We now have up to 41 per cent of need: and if I had my way, tomorrow it would be a hundred per cent.

Q. And so in your judgment some kind of additional aid would be needed in order to adequately provide a family whether they came from a substitute parent or otherwise?

A. That's exactly right: and in line with that, the [56] records will show that I have written to every

County Commissioner's Court in this State, and so had Governor Wallace when he was Governor, holding out to them the need for direct distribution of the food stamp program within that county. We went so far as to even give them an estimate as to the cost of the program as well as the number of recipients that would be eligible, and pointed out to them, particularly in our ADC cases, where the average payments were some $11.00 or $12.00 a month, that each person could receive an additional $7.00 to $9.00 a month in food, depending on the amount of commodities that were available within a given period of time. In other words, in our direct distribution program, the amount of food per person ranges from $7.00 a month to $9.00 a month; and we pointed this out. I mean it would have been in some cases—for example, our payments now are twelve dollars and something a month —and if you could have given them $9.00 more, you would have been almost doubling it, the amount per person. We have called this to their attention. I have gone all over the State of Alabama speaking to the Commissioners' Courts, and the civic clubs throughout this State. And we wrote a letter here in Montgomery County, and we pointed out that here in Montgomery County that for every dollar that Montgomery County put into the program that they would get [57] over fifty dollars back in food; and I got a one paragraph letter back stating to me that there was no need for the program in this County.

Q. Mr. King, would you consider this Substitute Parent policy as being highly punitive, particularly where there are children of tender years, irrespective of Race or Color, who are the direct victims——

A. No, I don't consider it punitive, because the mother has a choice in this situation to give up her pleasures or to act like a woman ought to act like and continue to receive aid; and even in those cases later on where she decides that she wants to continue her nightly pleasures,

if she decides later on that she wants to cut it out, then there are methods, and there are reasonable methods for it to be removed. I don't consider it to be punitive.

Q. I am thinking about the children now.

A. I do not consider it to be punitive.

Q. Is there a transitional period provided so as to permit other agencies to come in and assist so as to keep the children from being without food?

A. Well, this Agency works very closely with the Red Cross, the Salvation Army: and I know of no cases where we have had children starved in this State as a result of this.

[58] Q. Do you know what has been done——

A. This has been, this has been in line with something that I have tried to do ever since I have been Welfare Commissioner; and it goes back to the days when I used to represent a poor woman who would come into my office with three or four children hanging on to, and she is pregnant again because of some sorry lowdown man out here running off and leaving her. I have a very strong conviction about making a man support his children—black, white, pink, yellow, or whoever he is: and this was just another example to me of trying to put the responsibility of support where it ought to be; and that is, if a man goes in that home, and he enjoys the privileges of a husband, or he stays out of the home and still enjoys the privileges of a husband, he ought to have the responsibility.

Q. Mr. King, are you aware of any legal machinery which can make it mandatory that such so-called substitute parent carry on the responsibility of supporting the child, or accept the responsibility of supporting the child?

A. No, I know of no legal machinery. If your are talking about whether this mother has the right to go into court and seek support, no.

Q. (By Mr. Garbus) Do you know of any one case,

where as a result of the application of the Substitute Parent rule, the alleged father or parent has contributed [59] to the support of the children?

A. No, I don't; but I will tell you one thing, and I will quote you a statistic that came out as a result of this study right here (indicating), that when it came off of IBM I asked them to run it back through again, because I didn't believe it when it came out: and that is, it showed that in percentage-wise of the children on ADC in this State, that over three times as many Negro fathers, percentage-wise, were contributing to the support of their children than were white.

Mr. Garbus: Off the record. I am not sure that I understand the significance of that.

(Off record discussion.)

Mr. Conley: All right, let's get back on the record.

Q. (By Mr. Conley) Mr. King, if evidence was ever presented that a dependent child was not getting the benefit of aid which was given to a parent on his behalf, would this aid be terminated?

Mrs. Stapp: Would you state that question again?

The Witness: I don't know that I follow your question again, Mr. Conley, or would you ask your question again, sir?

Q. (By Mr. Conley) All right, let me give a hypothetical case: If a family, say, of four children [60] who are qualified for the aid, if evidence is presented that the mother was using the money which was intended for these children for other purposes, would this aid be terminated?

A. No.

Q. I mean, what would your department do about a situation like that?

A. Well, if it is called to the attention of the department—first of all under the child welfare laws of this State, the law placed upon this department the responsi-

bility to seek out and help those children that are in need. In a situation like this, if we found that the mother was not using money for the support of those children and those children were being deprived, this department would step in immediately and ask for temporary custody of those children. We would put those children in our foster homes.

Q. The reason is because the State is basically interested in these children being provided for?

A. Yes, sir, that is correct.

Q. All right. Now, let's take the other side of the possibility. In a situation where there is a question of the mother's morality, in so far as her relationship with a so-called substitute parent——

A. Yes.

[61] Q. —— Isn't it a fact that her children are being victimized by not being provided where the support is cut off, where it is terminated; and specifically as in the Smith case, there were four children——

A. You want to know if it is of any concern of mine?

Q. Yes.

A. It is a concern of mine if we have one person, Mr. Conley, in this State that deserves help and who is not getting it: but you are putting everything, you are trying to make a whole case here on a question of morality. Well, we are not. We are not in the business to judge people morally. We are looking at this thing from a resource factor. We have got a man here who is a resource of help to this woman. This is my approach to it. It goes back, it goes back to the question, as I have tried to explain it to you from the very beginning when I came here, and that is when I introduced bills in the Legislature making nonsupport a felony. It's an economic factor with us. It's an economic factor because I am fully aware that if this child stayed on the welfare rolls and was not cut off, this child is only going to be getting 38 per cent, or was only getting

38 per cent of what she should have gotten, or he should have gotten at that time.... Like it or not, the Legislature of this State earmarks certain funds. I would like to see more of [62] those funds go into the ADC program. There is no secret——

Q. Well——

A. ——Let me finish. I am not trying to evade the question. It is of concern to us. It is of so much concern to us that we—We have got a situation here where children were getting 38 per cent of what they should be getting anyway, or the mothers. So when it comes down to the question of us taking a realistic look of what we have got, we had a chance of losing the whole program, a real good chance: so to avoid that, I wanted to at least clean up the program, and put the money, the additional money that as a result of taking these people off the rolls, we put that money right back into the same program; but what we did, we were able to raise the grants, as you can see here, the payments are up from your June of '64 figures up over a dollar a person. Now, a dollar maybe doesn't mean too much to you or too much to me, but to a mother out here who has four or five children, an additional four or five dollars a month means another sack of flour, or another dozen eggs, or some more milk. It means an awful lot of difference. These programs were never put in to try to punish a Negro or to try to punish a White person; because if you sit in the position that we have got to sit in up here and see poverty every day and see people, little children that we have had to go out here and take away [63] from their parents because they have been brutally beaten or brutally starved, you have to have a strong fortitude and or a kind heart, or you couldn't sit up here. And this program was never put in as a means of punishment.

Q. What I am trying to have you explain, Mr. King—and I would like to say that I agree with you——

A. Now you asked the question if it is of concern to me, it is of concern to me—you were talking about a situation—it is of concern to me. It's been of concern to me, Mr. Conley, that we have had to remove these people. Sure, it has been of concern to me that we have had to remove these people from the welfare rolls: but it was a question in my mind of whether or not we were going to remove three or four thousand, or whether or not we were going to remove ninety thousand: and it's of concern to me. It is of concern to me, if we have got one person in this State that's hungry or cold, it's of great concern to me.

Q. I'm very much concerned also about the parent who engages in maritriculous relation in the absence of wedlock; but I am also concerned, and I am sure that you are, and I would like a statement from you with respect to the situation: where the Substitute Parent policy is invoked, you are looking at the morality of the parent and not of the child?——

A. No——

[64] Q. ——As a matter of fact?——

A. No, I am not looking I am not looking at the morality——

Q. The lack of morality, I should say.

A. No, I am not looking at the lack of morality. I am looking at this as a source of income. Here is a man who has all the privileges of a husband, and why doesn't he have the responsibilities of a husband? Maybe you say legally you can't do it; but what about the moral aspects of it? There is such a thing as moral law.

Q. If it is not possible for you to require such a so-called substitute parent to in fact support, wouldn't there be the duty of your agency to re-establish such support?

A. No: because we have gone to the mother, and we have asked her to discontinue this type of relationship; and as a result, she has a choice to make. Why should we

be the one to make the choice? Why should a Welfare Department, who is not involved in the situation as closely as the mother or as closely as the substitute parent, why should the responsibility be upon us? This mother, has a choice. We are not involved in it emotionally like she is. Why should the choice, I am saying, why should the choice be placed with the Welfare Department? The mother, the mother can make the choice. She can make the choice, and [65] she can make the choice of whether she is to continue to get the aid, or whether or not she is not going to continue to get the aid.

Q. And does your Department make any determination as to the ability, the mental ability of the parent to make this choice——

A. Well, the ability certainly we take into consideration; because it does not—— We have the able-bodied policy. We take——

Q. (By Mr. Garbus) I think Mr. Conley was asking whether you take into consideration whether the mother who has been cut off is capable of giving you the evidence which would show that the relationship has been discontinued.

A. I don't know that we have any direct policy on that; but certainly in the interpretation of any policy, it has to be interpreted with reasonableness; and then if a woman is such mentally that she doesn't know right from wrong, or she is not capable of getting up this evidence, or she doesn't even know what you mean by it: in those situations it would be my hope that there has not been a determination of ineligibility.

Q. (By Mr. Conley) Mr. King, if we can get back to the Smith case:—Would you agree that the four children involved, Mrs. Smith's four children, as American citizens, if they are in need, and if they are otherwise qualified [66] for assistance except for the lack of morality on the part of Mrs. Smith, shouldn't they receive some kind of aid?

A. Well, first of all, as I say, you continue to approach this problem from a morality standpoint. We are not approaching it from that standpoint. We are approaching it from a resource standpoint. I am not even familiar with the Smith case. I don't know the facts of the case.

Q. The Smith case essentially is a case where the Substitute Parent rule was invoked, and aid was discontinued.

Mrs. Stapp: You mean the extended facts in this particular case, don't you, Mr. King? The Sylvester Smith case is this case that you are taking depositions on.

Mr. Conley: Yes.

Mrs. Stapp: You were asking, and you are trying to get from Mr. King his reaction about the four children in that case, and Mr. King said that he did not have a broad knowledge of the facts in that case: and that is true. I think that he has seen the Complaint, but I don't think that he had any——

The Witness: As I have stated, Mary, the Department, the Department is not approaching this from a question of morality.

Mr. Conley: This is my problem:—It seems to me like the question of morality is facing us on all fours.

The Witness: Well, it may be, but also the [67] question of resources is facing us, too.

Q. (By Mr. Conley) What do you mean by resources?

A. Well, I mean that any available income has to be taken into consideration in figuring out a budget and a budget deficit; and if this person has income, then of course it would reduce the amount of check, or in this case, they would not be deprived of parental support: in order to be placed on the welfare rolls of this State in our Aid to Dependent Children category, the child must be deprived of parental support.

Q. When you speak of resources, do you have reference to a type situation where the parent, the mother, may go out once a week and have relationship with a man, and

that the person with whom she has relationship, is this considered a possible source of income to a family——

A. Yes.

Q. ——As an excuse for, I mean for permitting the substitute rule of a father——

A. It is, it is considered as a source of income. It all goes back to what I stated earlier; if a man has the privileges of a husband, then he ought to have the responsibilities.

Mrs. Stapp: May we go off the record.

(Off record discussion.)

Mr. Garbus: Let's get back on the record. Mr. King, [68] let me ask you one question:——

Q. (By Mr. Garbus) I show you an Administrative Letter No. 2113, which has annexed to it an affidavit of the mother. Do you know whether these forms were supplied to each one that was cut off, to each woman that was cut off because of the application of the Substitute Parent rule, and do you know whether or not any of these forms were filled out, since the forms have been prepared by any recipient who has been cut off?

A. As to your questions, the instructions were to give it to everyone that had been removed from the welfare rolls.——

Q. Do you know——

A. ——As to whether any of them have been filled out, I don't know. I would assume that they are; and if they haven't been filled out, I would like for the attorneys who are representing this Agency to make them available to you.

Mr. Garbus: All right. Will you do that, Mrs. Stapp?

Mrs. Stapp: Would we have them. Would the State Office have them?

The Witness: If they are not, then call the counties and tell them to send them up here and make them available to them.

[69] Mrs. Stapp: Administrative Letter twenty what?

Mr. Garbus: Administrative Letter 2113.

Q. (By Mr. Garbus) Mr. King, my last question is:—Would you have made available to me, through your employees or co-workers, any information you have concerning the reasons for the application of the Substitute Parent rule in any particular case?

Mrs. Stapp: Will you please say that again?

Mr. Garbus: I withdraw it. Physically strike that out. I will word the question differently.

Q. (By Mr. Garbus) Mr. King, would you have made available to me any information your offices have concerning the application of the Substitute Parent rule; namely, the reasons why the Substitute Parent rule was invoked in any one of the particular cases in which it was invoked?

A. I'll give you an answer to it; but first, let me talk to you off the record.

Mr. Garbus: All right.

(Off record discussion.)

Mr. Garbus: Back on the record.

The Witness: If we can limit it to the counties, and most of the counties that are going to be effected will show up in these here (indicating). I have, I have no objection, if we will limit it to the counties that you think will show what you want to show.

[70] Mr. Garbus: I will limit that, Mr. King, and classify the five or six counties, and I will identify the five or six counties to Mrs. Stapp.

The Witness: I have no objection.

Mr. Garbus: All right, can we have that?

Mrs. Stapp: Yes.

Mr. Garbus: All right, let me add to my statement: I will limit that request to five or six counties, and I will give Mrs. Stapp the names of those counties.

Mrs. Stapp: We do want to get clarified from you, and

we will do this afterwards, what it is you want, too; because some of this is——

The Witness: If we will limit it, if we will limit it to these counties where they think that it will show what they want to show, I have no objections.

Mr. Garbus: Thank you. I have no further questions at this time.

Mrs. Stapp: I have only one that I wanted to bring out.

The Witness: Well, let me say this: I will be available at 11:00 o'clock tomorrow, because more than likely you all are not going to get through with all of these things today anyway; and if you want to ask me some more questions tomorrow, I will be glad for you to.

Mrs. Stapp: And if I think of any cross- [71] examination of that part, Mr. King——

Mr. Garbus: Why don't we do this, don't let me impose on you, but why don't you as the cross-examination in the possibility that we don't have to come back here?

The Witness: Yes, if you have any question, why don't you ask me, and then you might not have to come back here; that is, if you don't need to, you won't have to.

Cross-Examination,

by Mrs. Stapp:

Q. Mr. King, do you know of any administrative appeal that Mrs. Sylvester Smith has taken: she's the plaintiff in this case, to this agency?

A. I know of no appeal.

Q. You know of no administrative appeal?

A. If it has, it hasn't come before me.

Q. If the agency policy for any reason had been incorrectly applied in Dallas County, would the State Department have an opportunity to correct it on an administrative appeal?

A. Yes, it would.

Mrs. Stapp: That is all of the questions that I have to ask.

Redirect Examination,

by Mr. Garbus:

Q. Mr. King, before we go, prior to the Substitute [72] Parent policy, prior to the promulgation of the Substitute Parent policy of 1964, did you have any meetings with your Board, State Board of Supervisors, concerning the Substitute Parent policy?

A. It had to be approved.

Q. Were minutes kept of that meeting?

A. Yes, there are minutes available.

Mr. Garbus: Mrs. Stapp, will you make those minutes available to us?

Mrs. Stapp: Yes, we will be glad to.

Q. (By Mr. Garbus) Was the Substitute Parent policy discussed at subsequent Board meetings?

A. I don't know whether they were or not; but any of the Board meetings, I have no objection to your taking a look at the minutes. I am sure that we probably discussed them; because we generally, at these meetings, discuss and always talk about the overall program.

Mr. Garbus: Mrs. Stapp, will you make those minutes available, too?

Mrs. Stapp: We will be glad to make any available where this has been discussed.

Q. (By Mr. Garbus) Mr. King, are there any other meetings other than the Board Supervisors' meetings, that we just discussed, where you discussed the Substitute Parent policy, and where a transcript was kept of that [73] meeting?

A. I don't know of any.

Q. Did you ever appear before the Legislature to discuss the Substitute Parent policy?

A. No, sir.

Q. Were any hearings held by any legislative body or any other committee?

A. No, sir.

Q. Or any State body——
A. No, sir.
Q. Concerning the Substitute Parent policy?
A. No, sir, there were not.
Mr. Garbus: That's all the questions that I have.

Further Deponent Saith Not.

(Deposition ended at 1:35 p. m. same day.)

[74] **Certificate.**

State of Alabama,
County of Montgomery.

I, Ira Fred Watson, a Court Reporter, and a Notary Public for the State of Alabama at Large, do hereby certify that I reported in shorthand the foregoing deposition of Ruben K. King, at the place stated in the caption hereof; that the witness was by me sworn to speak the truth, the whole truth, and nothing but the truth; that the witness was examined by counsel for the respective parties; and I later reduced my shorthand notes to typewriting, or under my direct supervision; and that the foregoing pages, numbered 4 through 73, both inclusive, is a true record of the testimony given by the witness.

I further certify that I am neither or counsel nor of kin to any said parties in said cause, nor in any manner interested in the outcome thereof.

I further certify that the reading and signing of the deposition by the witness was waived by counsel and witness present.

This 28 day of March, 1967.

/s/ IRA FRED WATSON,
IRA FRED WATSON,
Special Court Reporter,
Notary Public.

DEPOSITION OF CLARA MAE LLOYD.

(Caption Omitted.)

(No. 4 as Noted on p. 1 of Stipulation Filed 4-27-67.)

March 9, 1967

Montgomery, Alabama.

[1] Deposition of Clara Mae Lloyd, taken in the above-styled cause, pursuant to the Federal Rules of Civil Procedure, on the 9th day of March, 1967, at or about 4:00 p. m., in Room 552, State Administrative Building, Montgomery, Alabama, before Ira Fred Watson, a Court Reporter and a Notary Public for the State of Alabama at Large.

Appearances:

Mr. Charles S. Conley and Mr. Martin Garbus, appearing on behalf of Plaintiffs.

Mrs. Mary Lee Stapp and Mrs. Carol Miller, appearing on behalf of Defendants.

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Deponent:	Dir.	Cross	Red.
Clara Mae Lloyd	3	9	9

Exhibits.

Plaintiff's:	For ident.
No. 24 (Project Report)	3

[2] **Stipulation.**

It is stipulated and agreed by and between parties that the Deposition of Clara Mae Lloyd may be taken before Ira Fred Watson, as commissioner, in Room 552, State Administrative Building, Montgomery, Alabama, at

or about 4:00 p. m.; and that all notice and issuance of a commission are waived; and the parties further agree that the submission of said deposition to the witness for reading and signature is waived, the said deposition to have the same force and effect as if full compliance had been had with all laws and rules of court relating to the taking of depositions. It is further agreed that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for both plaintiffs and defendants may make objections and assign grounds at the time and place of trial or at the time the said deposition is offered in evidence or prior thereto.

It is further agreed that notice by the party taking the deposition of the filing of said deposition to any or all other parties is hereby waived.

[3] **Deposition.**

CLARA MAE LLOYD,

being first duly sworn, was examined, and deposed as follows:

Direct Examination,

by Mr. Garbus:

Q. What is your present position?

A. Child Welfare Supervisor.

Q. Which county do you supervise?

A. Dallas County.

Q. And did you prepare a project titled "A Demonstration Project Strengthening Family Life for A. D. C. Children," living in homes where conditions were currently considered unsuitable?

A. Yes, I did, in cooperation with the Advisory Committee of the State Department of Pensions and Security.

Mr. Garbus: I ask that this be marked as Plaintiff's Exhibit No. 24.

(Document referred to was marked for identification as Plaintiff's Exhibit No. 24.)

[4] Q. Was this initiated at the State level, and were you the local project Director?

A. That's right, it was initiated at the State level.

Q. And the study was made of 493 children in 128 A. D. C. families in Dallas County?

A. That's right.

Q. Was one of the criteria for the selection of Dallas County for the study, other than your own qualifications, the fact that it was a county which was both rural and urban in nature?

A. Yes, that's correct.

Q. Did you in the course of your study draw any conclusions about the stability and permanency of relationships where a man and woman lived together without the formality of a marriage?

A. We had a very distinct impression from our work on the project that relationships of substitute father, whether part time or full time, did in the majority of cases have real meaning to the children in the family. So many of the children called the man "Daddy," they would distinguish between Daddy and "my real daddy"; and one of the [5] interesting things was that even after the relationship was broken, many of the children still maintained that relationship with a friend of the mother.

Q. Was it one of your conclusions of the study that, irrespective of the fact that a man and a woman may or may not have been married, that the presence of the substitute parent was a healthy thing insofar as the children were concerned?

A. In a lot of the instances where there was a real meaningful relationship there was.

Q. Did you find any difference with respect to relationships where you had a formal marriage and relationships where you did not have a formal marriage, insofar as the

strength of the relationship or the meaningfulness of the relationship to the children?

A. I would certainly say there was a difference. I don't know the extent—we didn't draw any conclusions of the difference. That was not the purpose of the project. It was to strengthen these homes where unsuitable factors existed, and unsuitable factors included health—so many different things—housing, financial, [6] recreation, and those kinds of things.

Q. Would you say, based on your experience, that the presence of the substitute parent was a healthier situation than if the same situation existed without his presence, insofar as the children were concerned?

A. We didn't draw any conclusions on that.

Q. Well, what is your feeling about it, based on your experience?

A. I think this: I think where there has been emotional deprivation, relationships mean more to those children than they do where there has not been emotional deprivation. They latch onto any person, whether it is a short time or a long time. Some of them are more extensive relationships than others. But as far as drawing a conclusion as one against the other, we did not, but we did look at ones that did have meaning.

Q. Your feeling, then, is that these relationships in many cases were healthy for the children?

A. Yes.

Q. Do you presently live in Dallas County?

A. Yes.

[7] Q. Are you presently employed by the Welfare Department?

A. Yes.

Q. Have you seen the application of the Substitute Parent rule?

A. Yes, I have.

Q. What is your observation about what it has done in these family situations?

A. I don't believe that I have had or seen enough. I'm Supervisor of these Child Welfare workers, and we have a very small number of A. D. C. cases in our case load; and so, I don't think I have seen enough. The ones that we have seen, where the parents are married, are where the parents are married, if the substitute father and the person gets married—we have, I know, of one where I can recall where the relationship has gone on regardless of the termination of the grant.

Q. Would you say that it has been your general experience that the presence of the substitute father, which will deny benefits to the mother, a situation like that, results in the break-up of the relationship?

A. The ones that I know, they have not resulted in the break-up of the relationship.

[8] Q. Even though the aid has been cut off?

A. Yes.

Q. Have you discussed the application of the substitute parent rule with other professional people?

A. In general, in staff meetings, etc.

Q. And you have heard from some of these other people in your profession that the presence of the substitute father rule leads to the break up of these relationships?

A. I don't recall specifically that.

Q. Were you at any of these staff meetings involved in discussion concerning the substitute parent rule?

A. Not in mine—I have heard generally but not in specific discussion on that one point.

Q. What is your opinion, based on your experience as a social worker and your experience as local project director of this project, with respect to the relationship between children—whether they be legitimate or illegitimate—and the substitute parent, as it is affected by the substitute parent regulations?

A. I would say that these relationships still [9] existed after the termination because of a policy that the rela-

tionship was sufficiently stable in a good many instances to withstand other pressures terminating the case.

Mr. Garbus: I have no more questions.

Cross-Examination,

by Mrs. Miller:

Q. Mrs. Lloyd, I believe you testified to the effect that the termination of aid often did not result in a breakup of the relationship between the parent and the substitute parent: Could you say whether termination of aid actually had the opposite effect?—did some of the people go ahead and get married, for example?

A. Yes, they did.

Redirect Examination,

by Mr. Garbus:

Q. Do you know of any cases where the termination of the aid resulted in the man leaving the home?

A. I do some where they have moved out of the home. The relationship was not broken, but they moved out of the home.

Q. They moved out of the home and the [10] relation was not broken; so that, as I understand it, they continued to receive aid—is that right?

A. Yes.

Q. Do you know of any instances where the relationship was permanently broken because of the substitute father regulation?

A. No. You see, it's difficult in a way, because the present substitute policy was not in effect at the time the Project was in effect.

Q. Isn't it a fact that the present substitute parent policy is basically the same as the substitute parent policy that went into effect towards the end of your Project?

A. Virtually the same, yes; I believe it is.

Q. In your study of these relationships, you found in

many cases, as I understand it, a great deal of love and affection flowing between the mother and the substitute parent and the children—is that right?

A. That's right.

Q. And without making a qualitative analysis of love and affection, as I understand your testimony, you found relationships often as good and healthy as in formal marriage situations—is that right?

[11] A. Found them more or as strong?

Q. As strong as.

A. Yes, I would say for the time being; they were temporary, and——

Mrs. Stapp: Your testimony earlier was that in some instances——

The Witness: In some instances. There are always exceptions to the rule, but in some instances. Of course, it is not the ideal, because we would hope they would be more permanent; but I do think that children, where there has been emotional deprivation, form relationships more easily.

Q. (By Mr. Garbus) Many of these relationships, these unmarried relationships, had existed for long periods of time, hadn't they?

A. That's right.

Q. Would you say, based on your experience as a social worker and based on your work in this Project, that perhaps the average age of relationships where you had unmarried people was nearly as long as the average age of relationships where you had married people?

A. The relationship of the person?

[12] Q. Yes.

A. I don't know whether I could say that or not.

Q. You don't know one way or the other?

A. No.

Mr. Garbus: I have no other questions.

Further deponent saith not.

[13] **Certificate.**

State of Alabama,
County of Montgomery.

I, Ira Fred Watson, a Court Reporter, and a Notary Public for the State of Alabama at Large, do hereby certify that I reported in shorthand the foregoing deposition of Clara Mae Lloyd at the time and place stated in the caption hereof; that the witness was by me sworn to speak the truth, the whole truth, and nothing but the truth; that the witness was examined by counsel for the respective parties; that I later reduced my shorthand notes to typewriting, or under my direct supervision, and that the foregoing pages, numbered 3 through 12, both inclusive, is a true record of the testimony given by the witness.

I further certify that I am neither of counsel nor of kin to any of said parties to said cause, nor any manner interested in the outcome thereof.

I further certify that the reading and signing of the deposition by the witness was waived by counsel and witness present.

This 28th day of March, 1967.

IRA FRED WATSON,
Court Reporter-Notary Public.

* * * * * * *

In the United States District Court
For the Middle District of Alabama,
Northern Division.

Mrs. Sylvester Smith et al.
vs.
Ruben K. King et al.
} Civil Action No. 2495-N.

Filed Apr. 27, 1967. R. C. Dobson, Clerk,
By ..... Deputy Clerk.

DEPOSITION OF JACQUELYN STANCIL.

(Caption Omitted.)

(No. 5 as noted on p. 1 of stipulation filed 4-27-67.)

March 9, 1967.

Montgomery, Alabama.

[1] Deposition of Jacquelyn Stancil, taken in the above-styled cause, pursuant to the Federal Rules of Civil Procedure, on the 9th day of March, 1967, at or about 3:30 p. m., in Room 552, State Administrative Building, Montgomery, Alabama, before Ira Fred Watson, a Court Reporter, and a Notary Public for the State of Alabama at Large.

Appearances:

Mr. Charles S. Conley and Mr. Martin Garbus, appearing on behalf of Plaintiffs.

Mrs. Mary Lee Stapp and Mrs. Carol Miller, appearing on behalf of Defendants.

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Deponent:	Direct
Jacquelyn Stancil	3

Exhibits.

Plaintiff's:	For Ident.
23-A, 23-B (Letter dated February 23, 1967, from Mrs. Stancil to Mrs. Stapp, with enclosures.)	37

[2] **Stipulation.**

It is stipulated and agreed by and between parties that the Deposition of Jacquelyn Stancil may be taken before Ira Fred Watson, as commissioner, in Room 552, State Administrative Building, Montgomery, Alabama, at or about 3:30 p. m.; and that all notice and issuance of a commission are waived; and the parties further agree that the submission of said deposition to the witness for reading and signature is waived, the said deposition to have the same force and effect as if full compliance had been had with all laws and rules of court relating to the taking of depositions. It is further agreed that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for both plaintiffs and defendants may make objections and assign grounds at the time and place of trial or at the time the said deposition is offered in evidence or prior thereto.

It is further agreed that notice by the party taking the deposition of the filing of said deposition to any or all other parties is hereby waived.

[3] **Deposition.**

MRS. JACQUELYN STANCIL,

being first duly sworn, was examined, and deposed as follows:

Direct Examination,

by Mr. Garbus:

Mrs. Stapp, before we start the testimony of Mrs. Stancil, can we stipulate that Mrs. Smith, the Plaintiff, is the mother of four children, that one of her children, Willie James, has not received parental support or care from his father, who has been continually absent for many years; that all of the children are under the age of 18 years; that the sole income of Plaintiff Smith and her children is the sum of $16.00 per week, paid to the Plaintiff for working as a waitress six days a week, from 3:00 a. m., to 12:30 p. m.?

Mrs. Stapp: Do you know of any reason that's not true, Jackie?

The Witness: I don't know.

Mrs. Stapp: Do you know any reason that those facts are not true?

The Witness: Well, we really haven't established anything about the father of the youngest [4] child, so that we wouldn't know.

Mrs. Stapp: In other words, the Agency is not positive who the father of the youngest child is.

The Witness: And we don't know about her present income.

Mrs. Stapp: You don't know about her present income?

The Witness: We know what it was when the case was terminated.

Mrs. Stapp: Was that the amount when the case was terminated?

The Witness: Yes.

Mr. Garbus: I'll take the stipulation——

Mrs. Stapp: All right——

Mr. Garbus: Can we also stipulate that Mr. Williams—Willie E. Williams—is the alleged substitute father; that he has nine children of his own; that he lives with his family, including his wife; and eight of the nine children are dependent upon him for support; and that Mr. Williams is not now, nor was he at the time of the termination of Plaintiff Smith's benefits, willing or able to support the Smith family, and that Mr. Williams is the father of none of the children of Plaintiff Smith?

[5] Mrs. Stapp: All right, Jackie, what is your modification of that?

The Witness: We do not know that he has a wife and eight or nine or how many children, because we never talked with him.

Mrs. Stapp: The Agency has never talked with him?

The Witness: We do not know—. Now, what was the first part that you asked?

Mr. Garbus: That he has ever been willing or able to support Mrs. Smith——

The Witness: We do not know anything about that, because we know nothing about his income.

Mrs. Stapp: The Agency has no knowledge of his income.

The Witness: That's right.

Q. (By Mr. Garbus) Do you know whether Mr. Williams was the father of any of Mrs. Smith's children?

A. I don't know.

Q. And you said before that you do not know the father of the youngest of Mrs. Smith's children?

A. That's correct.

[6] Q. Have you ever looked at the birth certificate of that child?

A. Yes, we have.

Q. What does the birth certificate indicate?

A. Well, let me see . . . It either shows only the mother

or it shows her deceased husband, and I can't remember which, because it has been so long since I actually saw it.

Q. Do you know if her husband was deceased nine months before the birth of this child?

A. Yes.

Q. Do you know how long before the birth of that child the husband had been deceased?

A. Well, I think her husband died in 1955 or 1956, the first part of 1956; and that child was born, I think, in 1957.

Mr. Garbus: Can we stipulate, Mrs. Stapp, that by notice dated October 11, 1966, Plaintiff Smith and her children were removed from the rolls retroactive to September 30, 1966, on the grounds that Mr. Willie Williams was a substitute father?

Mrs. Stapp: Was that the correct date, do you recall?

[7] The Witness: I don't remember.

Mrs. Stapp: We stipulate that I believe that is the correct date, if we can feel free to change it if it is not. The termination did not state the name of the substitute father. Was this the person that you had in mind?

The Witness: Yes.

Mrs. Stapp: Then we can stipulate that this was the name of the person.

Q. (By Mr. Garbus) When for the first time did you meet Mrs. Smith?

A. In August of 1966, I believe.

Q. Were you at that time assigned to her for the first time?

A. That's correct.

Q. Do you know who her previous case worker had been?

A. Yes.

Q. Who was that?

A. Mrs. Buster.

Q. And how long had Mrs. Buster been the case worker?

A. Since the case had been approved.

Q. Do you know how long a time prior to the [8] time that you met Mrs. Smith that she had been getting aid for dependent children?

A. I think since 1956, but I'm not positive.

Q. Prior to your meeting with Mrs. Smith, did you examine her file?

A. That's correct.

Q. And did that file indicate anything at all about Mr. Williams?

A. Yes.

Q. What did it indicate?

A. Shortly before the substitute father policy went into effect, I——

Mrs. Stapp: I object for just a minute. I have not asked, though I am sure that it is true, the former recipient had given you permission to note confidential information in her file?

Mr. Garbus: She has.

Mrs. Stapp: She has, and you will stipulate that in the record?

Mr. Garbus: Yes, I will.

A. Before Mrs. Smith was transferred to my territory, my first contact with her, I had not examined her record, because she came in when it had just been transferred from one worker to another, [9] and it was not yet time to see her.

Q. Was this August of 1966?

A. Yes. And so that after I had talked with her——

Q. Why was she transferred from one worker to another?

A. Because she moved from the country into town. And when I went to do the review, before doing the review, I read the case record, and there was mention of her relationship with him in 1962—it's either 1962 and 1963 or 1963 and 1964, just before the substitute father policy went into effect.

Q. What did the file say about that relationship?

A. It says that he was living with her on weekends.

Q. Did it give you the source of that information?

A. She told the worker herself.

Q. And the file indicates that this is what she told the worker?

A. That's right.

Q. And, as I understand it, when you saw the file in August of 1966, the sole record was the reference that prior to the substitute parent rule [10] coming into effect, she had been living with him weekends?

A. I don't understand what you are saying.

Mrs. Stapp: What is your question again?

Mr. Garbus: Off the record.

(Off record remarks.)

Q. (By Mr. Garbus) On the record. In August of 1966 when you saw her for the first time, what did you say to her, and what did she say to you?

A. She came in because she was unhappy that her check had been cut from the amount that she had been receiving to the amount that she was presently receiving.

Q. Why had the check been cut?

A. Because she had been working for some two months and had not reported to us that she was working; therefore, we had to show not only income, but the worker also showed unreported income, which made her check lower. At that time, I tried to explain to her the reason that the check had been cut; and she was in a very excited state, she was very upset about it, and I tried to explain it as well as I could have; and [11] I went over the budget with her in detail, and explained step by step how all of the figures were arrived at; and she said that she understood, but that she still did not think it was fair to cut her check.

Q. And then what happened?

A. Then she went home.

Q. And then what happened?

A. Then in September, I did her review and talked with her about the various points of eligibility. Then, in talking with a reference, the reference told me that——

Q. Which reference was this?

A. It was the reference that she had told me to talk with regarding her continued need for assistance.

Q. Do you know that person's name?

A. No, I do not.

Q. Is that name contained in the file?

A. Yes.

Q. What happened during the course of that conversation?

A. While I was talking with the reference, the reference told me that Mrs. Smith had been [12] going with Mr. Williams up until the time that she left from the country and had moved into town. So, I wrote Mrs. Smith a letter, and asked her to come in and talk with me. She came in and talked with me, and I told her that according to the information that we had received, she and Mr. Williams were maintaining a marital relationship, and I asked her if this was correct, and she said that it was. Then I——

Q. When you say that they were maintaining a marital relationship, do you mean that they were living together seven days a week?

A. No.

Q. What do you mean by "marital relationship"?

A. Well, she told me that he stayed at her home on weekends, and I said, "When he is in your home, do you have marital relations?" and she said, "Yes."

Q. You are equating marital relations with sexual relations?

A. Yes.

Q. And she said yes?

A. That's correct.

Q. By weekends, do you mean coming Saturday [13] and leaving Sunday night?

A. I would think from Friday night to Sunday.

Q. Go ahead.

A. And she said that she was maintaining a marital relationship with him, and I explained the Substitute Father policy to her, and asked her if she understood, and she said that she did. And I explained to her that if she continued to maintain this relationship, that we would not be able to continue assistance to her; and when I was explaining the Substitute Father policy to her, I explained about cohabiting with the man, and she said that she was doing this, and she understood this, but that she did not——

Q. When you say "cohabiting," you meant sexual relationship?

A. That's right. And I asked her if she understood that in detail, and she said that she did; and I explained to her that if her relationship with Mr. Williams were broken, we would be glad to try to help her establish this, and she said that there was no point in doing that, because she was continuing to go with him, and that if she did not go with him, she would go with some other man. She [14] said that she understood about the policy, and that it had been explained to her in detail prior to my telling her about it; but she said that since she had not had a child by him, that she thought that did not matter, and I explained the policy to her again. And then she asked to see someone else, and I felt, since Mrs. Buster knew her very well, and she was getting in a very excited state again, I asked Mrs. Buster if she would talk with her; so Mrs. Buster and I talked with her, and in talking with both of us together, she said that she was maintaining this relationship with Mr. Williams, that it had been explained to her by the workers, by Mrs. Buster

and by me, that if you were maintaining a marital relationship, you were not eligible for financial assistance. But she was under the opinion that, since her husband was dead, that the Agency had promised to continue assistance to her until the children were grown, no matter how much income she had or what she did, that it had no relationship with the children; and we explained that to her, and then she still was not happy, and so that she asked to see the Supervisor; so that Mrs. Johnson, Mrs. Buster, [15] and I all three talked with her. And she said again that she understood the policy, and she said again that she was not going to discontinue her relationship with Mr. Williams, and she said that the reason that she was not going to discontinue her relationship with Mr. Williams was because she had been going with him for so long, and that he was good to her and gave her things, and some other men might not do this. What else do you want to know?

Q. What happened next?

A. There were several things that we discussed in relation to this, and sometimes not in relation to this. She told that she had received a letter from President Johnson telling her that she ought to be eligible for assistance, and I told her that I knew nothing about the letter, and she said that she was going to bring it to the office and let me see it; and I said, "Well, that will be fine, because then maybe I can explain it to you." And then she said something about the Social Security Office sent her a letter, telling her that she ought to be given help, and I told her again that if she would bring the letter to the [16] office, that I would be glad to discuss it with her. And at another point during the interview, she was talking about her little wages that she was making, and I told her that I would be glad to set up an appointment with her at the local Employment Office for a test for one of the new factories that was coming to town and

that paid minimum wages, and she said that she had no desire to work in a factory; and so I talked to her about the employment available in the nursing homes and hospitals in town, and she told me that she did not want to work there. So, I asked her was there any type of work that she would like to do that I could maybe help her find a job doing, and she said that she was happy with the work that she was doing, that she was just not happy with the pay that she was receiving. So I told her that I was sorry, that I could not ask her employer to raise her salary, but that if she changed her mind and would like me to set up a test for the factory, which at that time paid $1.25 an hour to start with, that I would be glad to do so.

Q. Is all of this contained in your notes in [17] the file?

A. Yes, sir. At one point, she asked about assistance for her oldest child and her baby, and I explained to her that we would be glad to take an application on the child and her baby, but that we would have to have the same verification that the relationship was broken, to accept an application for that child.

Q. When you say "that the relationship was broken," by that you mean that the sexual relationship had stopped?

A. Yes.

Q. Assuming that the sexual relationship stops, but that the people continue to see one another, would you then consider that the relationship was broken?

A. Well, now, it's according—if you mean in relation to whether this would affect eligibility for A. D. C.?

Q. Yes.

A. The way I understand, the policy is that the sexual relationship and the actual presence of the substitute father in the home or out of the home is the main basis there; but, now, a lot of times [18] the relationship will be very meaningful to the child, if the father continues

to visit with the child, and we try to encourage the fathers to do this, to continue this relationship with his child, even if the relationship with the mother is broken.

(Off record discussion.)

Q. Please continue and discuss what transpired between you and Mrs. Smith.

A. Well, I explained to Mrs. Smith that the same rule would apply in establishing the relationship was broken between her daughter and the man who was the father of that child, as in establishing a broken relationship—and when I say a "broken relationship," I'm talking about a sexual relationship, in an adult woman; and that we would be glad to try to help her in establishing that this relationship was broken. And she told me that the father of the baby had gone to New York, and I said, "Well, if you can give me somebody that I can talk with that can establish that the man has left the county, then you are more than welcome to make an application for assistance for the child," and that the only other problem we would have there would be that the [19] child itself is so young that, the check would probably have to be given to the mother, if the child met all the other eligibility requirements; and she said that that was not necessary, and I explained to her again that that was the policy at this time, and that I would not be able to approve an application, or that the Agency would not be able to approve an application, but that she could make an application if she wanted to at any time that she wanted to.

Q. What happened then?

A. Now, I'm not sure that all of this is in chronological order as to how it happened, because it was all in one day. I think that just about covers most of the things that we discussed.

Q. And then what happened?

A. Then she left. I think she came back to the back door and asked me for a card with my name on it, and I told her that I would be glad to give it to her, and I gave her a little card with my name on it; and that's the last time I ever saw her in the office. I passed her a couple of times on the street, but——

Q. And then, sometimes later was there a notice sent out saying that she was disqualified [20] from aid?

A. That's right.

Q. Did anything happen between the last time you saw her and the time the notice was sent out?

A. Well, after I saw her, it had to be dictated into our record, and then it had to be typed, and then it had to come through me and through my supervisor.

Q. Now, the relationship that she had with Mr. Williams, was that the same relationship that she had for the previous five years, according to her testimony, namely, that she was with him weekends?

A. That's correct.

Q. Did you ever ask her, or did she ever indicate whether she had received any support from Mr. Williams?

A. She said that he gave her things.

Q. What was your understanding that she meant by that?

A. I assume from what she had said, that he gave her maybe a dress, or something of this nature, or that he bought groceries sometimes, and brought them to the home, and various things like that.

[21] Q. Do you know how much money Mrs. Smith was making at that time?

A. Well, according to what she had told us and according to what her employer had told us—I didn't ever see her pay check—I had been told by her and her employer, she was making $16.00 a week.

Q. Do you know what Mr. Williams was making?

A. No, because she did not want to discuss him, other

than that she was maintaining sexual relationships with him, and had been doing so for five or six years.

Q. Did she use the term "sexual relationship" or "marital relationship"?

A. I think I said, "Are you having sex relations with him?" and she said, "Yes."

Q. And when she said that he was staying there weekends, was it your understanding that they were having sex relations several times over the weekend?

A. Well, I wasn't there, so I would not——

Q. Did you ask her how often she was having sexual relationships with him?

A. No.

Q. Is it relative whether she was having sex [22] relations one night a week or two nights a week, insofar as her being eligible for aid is concerned?

A. Well——

Mrs. Stapp: Are you asking her if it is relevant?—Do you mean is it relevant to the establishment of the policy or this lawsuit?

Mr. Garbus: To the establishment of the policy.

Mrs. Stapp: It seems to me that you are getting into the policy that relates to outside the home, and if they are frequenting the home, that would be another aspect of the policy; and so, it seems to me, in this instance, you are speaking of someone who frequents the home, aren't you?

Mr. Garbus: Well, what I am asking Mrs. Stancil now is if a man spends the weekend at the home, and has sex relationships with the woman one evening, would that be sufficient to call him a substitute father.

Mrs. Stapp: Are you asking her in how much detail did she go into it with the Plaintiff as far as establishing frequency during the week?

Mr. Garbus: Yes.

A. No, I didn't; I did not go into detail [23] with her

on this, because she had told me that she had been having sexual relationships with him over a period of five or six years, that he continued to be in her home on weekends, that she continued to have relations with him on weekends, and, therefore, that would be a continuing relationship which was over a long period of time.

Q. As I understand your testimony, once having established that there had been a long relationship, and once having established that he was there every weekend, you did not inquire further into how often they had sex relations, is that right?

A. That's correct. Because—now, this is just my personal opinion—but I would think it would be very degrading to a person to ask them to go into detail, when they had already said that they were maintaining sexual relationships?

A. Do you know whether she was having sexual relationships once a month with him, or was she having sex relations each weekend that he stayed there?

A. She told me that it was on a continuing basis. Now, I did not inquire as to whether she had [24] sex relations with him six times a day or once a day, or once a night, or——

Q. Or once a month.

A. No, I did not.

Q. So, so far as you know, he may have been spending every weekend there, and may have had sex relations once a month?

A. I would not think that would be likely.

Q. Well, you don't know whether it was——

Mrs. Stapp: She testified that she didn't know. I would think that you wouldn't press her any further on that, Mr. Garbus.

Q. (By Mr. Garbus) How long have you been employed by the Department of Welfare?

A. Since July of 1961.

Q. And how many cases have you closed—approxi-

mately how many cases have you closed because of the presence of substitute father regulations?

A. About 19.

Mrs. Stapp: How many cases did she say she had?

Mr. Garbus: I didn't ask her that.

Q. (By Mr. Garbus) How many cases did you [25] have at any one time during that period?—what was the average amount of cases that you had during that period?

A. I can tell you what we had when I started. Would that be good enough?

Q. Yes.

A. I had 130-something. 133, I think.

Q. These were all A.D.C. cases?

A. That's correct.

Q. How many do you have at the present time?

A. Well, at the present time, our case loads have been switched. I think right now I have around 70.

Q. Now, of the 19 cases that were closed, do you know under which of the three categories of the substitute father regulations they were most often closed? Off the record . . .

(Remarks off record.)

A. The majority of them, I would think, without going into it and checking case by case, would be where the father, the substitute father, was also the father of one or more of the children in the home.

Q. Do you recall approximately how many [26] of the 19 cases that was?—would you say half?

A. I would hate to say anything real definite, because I really, without seeing a list of them, I couldn't.

Q. Could you prepare such a list?

Mrs. Stapp: Off the record.

(Remarks off record.)

Q. Could you prepare such a list?

A. Yes.

(Brief recess.)

The Witness: I mailed Mrs. Stapp the letter.

Mr. Garbus: Mrs. Stapp, will you produce that letter?

Mrs. Stapp: I will produce the letter and put it into the record.

Q. (By Mr. Garbus) Will you continue?

A. When you were asking me about the breakdown of the particular cases, this is just a very hurried thing I'm trying from memory to remember, but as well as I can remember, 14 of the cases that we closed for substitute father was because the substitute father was also the natural father of one or more of the children who [27] were in the home. Of this number, three of the fathers actually had no other address whatsoever.

Q. Three of the 14.

A. Had no address other than the mother's address. The rest of them had the sort of situation where he would live with the mother part of the time, with the client part of the time, or with someone else part of the time and with the client part of the time.

Q. In the five cases where the man was not the father of one of the children, do you know how many of those cases broke down into the three categories of the substitute father regulation?

A. Well, now, of those, three—I think three of the five—the men were living in the home with the mother.

Q. On a full time basis?

A. On a full time basis. One of them, the man was eating his meals with the woman, he was coming there at night, but he was maintaining a separate home elsewhere; and then in one of these cases, the man was there on weekends.

Q. Do you recall any racial breakdown of the 19?

[28] A. Of the 19?

Q. Yes.

A. They are all colored, because I have no white cases.

Q. You were assigned only colored cases?

A. No, but in Dallas County, now we have about, I think, 375 cases, and of these 375 cases only about 7 of them are white families.

Q. What is you understanding of the term "frequently" in the second clause of the Substitute Father Regulations?

A. You will have to let me see it . . .

(Witness examines same.)

You wish my interpretation of that?

Mr. Garbus: Off the record.

A. Now, if a man and a woman had sex relations today, and he left town or he went to someone else and had relations with them the next day, and did not come back to this woman the next night, then I would say that that was not a regular relationship, and that would not constitute a substitute father. Now, I would say that if the substitute father was in the home and did this on a regular basis, or had a certain routine that he [29] followed for being in the home; and in between times possibly kept in touch with the mother, or sent her money, or whatever, during the week, and making his intentions of maintaining a more or less permanent, at that time, basis, and continued on whatever schedule that he had established and the woman had established as sexual relationships, then I would say probably on an average of once or twice a week.

Q. So it is your understanding that if a man is not living in the home regularly, and visited once a week for the purpose of cohabiting, that mother could be denied or would be denied or should be denied aid, because of the application of the substitute father regulation?

A. It's sort of a hard thing to say, because, you see, I don't just use my judgment. When I find a situation such as this, I go back to the office and discuss it with the case work supervisor, and then as soon as I can get all the facts together, then I try to make a decision. I wouldn't say that I think you could say on any wide scale that——.

Each case is an individual case, and each person is an individual person, and you have to take each [30] person as an individual person and apply the rule as it applies to that person.

Q. Let's take a particular case which you may or may not have had in your experience: where a man and a woman cohabit one evening in two months; but the woman indicates here a strong affection for the man, and that she would be with the man if she saw him again, but she hasn't seen him in two months. In a case like that, which is roughly the same as the Smith case, only it's elongated because of time, would you consider that such a relationship that he would be a substitute father?

A. I think that I would have to talk with the man and with the woman, and see what they thought about the relationship, before——. I mean I would not make a blanket statement, because——

Q. If the father and the mother both said to you that they enjoyed being with each other one night every two months and that they intended to continue to do it, would that be, in your eyes, a substitute father?

A. I have never had a situation like that come up. I mean, it would take a lot of thought; [31] it would take a lot of working with both parties involved; it would take a long discussion with my supervisor. And, like I say, since I have never had that situation come up, I have not had any reason to sit down and wonder whether or not if a man had relations with a woman once every two months——

Q. Well, insofar as you understand the regulation?

A. Just my personal opinion? Is that what you——

Q. Is it you opinion that——

Mrs. Stapp: Are you asking this as an expert?

Mr. Garbus: I'm asking this as a woman who has been in the field since 1961, is it your opinion that under this particular regulation, that that pattern that I have given you before would justify a cut-off?

A. Now, you are saying that he has had no contact with her between times?

Q. Yes.

A. I would not think so.

Q. Of the 19 cases that you closed because of a substitute father, were any of those cases [32] appealed?

A. No.

Q. How many cases would you approximate you closed since July of 1961 for any reason?

Mrs. Stapp: Do you mean 1964?

Mr. Garbus: Since 1961. Off the record.

(Off record remarks.)

Q. Let me reword my question. Can you tell me approximately how many cases you have closed since July of 1964 for any reason where you had an A. D. C. recipient?

A. About 110.

Q. Do you know how many of those closures were appealed?

A. None.

Q. In the 19 cases that you closed because of the substitute parent regulation, in any of those cases, did the women re-apply for benefits?

A. Yes.

Q. Do you know approximately how many?

A. I would say about three.

Q. Do you know if those reapplications were granted?

A. One of them was recertified. One of them [33] is an application at the present time; and one of them, the substitute father that she had been closed for because of the substitute father regulation, he had been maintaining a separate residence, and had been with her at night, and ate all of his meals there, but he maintained a separate residence; and he went back into the home, and the only child in the home was his, and the child was getting Social Security benefits under his coverage; and, therefore, the

application was denied as there was no need, but it was not denied for any other reason.

Q. In the cases where the recipient was recertified, can you tell me what you did with respect to securing the evidence in establishing that the relationship had been discontinued?

A. Well, in the one that was recertified—let me explain this to you before. A lot of times a person would be living in someone else's territory and be closed, and then they would move into my territory, and I would recertify them when they had applied. Sir, do you just want a general idea, or do you want specific cases and incidents?

A. Those two specific instances where the person had been denied because of the substitute [34] parent and were recertified.

A. I said one was recertified. That one was living in the home with the man who was not the father of the children. She came into the office and told me that she was going to marry the man. She requested that we close the case, because she was living with him. She later broke her relationship with him and went up North. When she came back from up North, the man had left Dallas County. We were able to verify that he had left Dallas County—the Sheriff had been after him or something—and he had left the county.

Q. How did you verify it?

A. Well, we contacted the Sheriff's Department and found out that they had a warrant out for him, and that he had skipped bail and left the county. And the other one that is presently an application is in someone else's territory. She moved after I closed it.

Q. And so there has only been one case that you have been involved in where someone who had been denied aid was subsequently recertified?

A. Well, there have only been three who asked for it. . . There were only three who asked for it.

[35] Q. Do you know whether Mrs. Smith appealed your determination?

A. As far as I know, she did not. We did not get any notice in Dallas County that she had requested an appeal.

Q. Did you discuss an appeal with her?

A. I explained her right to appeal, yes.

Q. Did you ask her to fill out one of the affidavits which would describe the father of her youngest child?

A. No, because her child was over a year, and we do not have to require an affidavit when the child is over a year of age.

Q. Have you ever asked anyone to sign one of those affidavits?

A. No.

Q. Before you close a case because of the application of the substitute parent policy, are you required to consult with your supervisor?

A. That's correct.—It's not required, but the record has to be sent to her, and if she feels that we have made an incorrect decision, then we discuss it, and she will not send through a termination of assistance without having checked with us on it.

[36] Q. Have you been working in Dallas County since July of 1964?

A. Yes.

Q. Have you had any discussions with the other case workers in that county concerning the application of substitute parenthood?

A. We have had staff meetings regarding the substitute father policy.

Q. As I understand it, 157 cases were closed in Dallas County for the period July, 1964, to June, 1965, because of the substitute father rule. Now, do you know in how many of those cases an appeal was taken, and do you know in how many of those cases the recipients ever made another application for A. D. C. aid?

A. First of all, we have had no appeals.

Q. When you say you have had no appeals, do you mean for any portion of the A. D. C. program since you have been in Dallas County?

A. That's correct.—We had one appeal on an application that was denied. The application had been denied, and that was the client's reason for appealing.

(Off record remarks.)

[37] Mr. Garbus: Mark this as Exhibit 24, which is a letter from Mrs. Stancil, the Witness, to Mrs. Stapp, dated February 23, 1967, with enclosures.—No, make that Exhibits 23-A and 23-B.

(Documents referred to were marked for identification as Exhibits 23-A and 23-B.)

Q. With respect to the 37 people recertified, do you have any recollection as to the kinds of evidence that was used to secure their recertification?

A. Well, in some instances, the man had left the county, or he had married someone else and established a home with another person; or in some instances, the clients gave us references who could verify that the relationship was broken. In some instances, where the client said that it would be too costly to try to get word to the references—I know I did, and I assume the other workers did too—we would take our cars and take the client down to whoever she said could verify that the relationship was broken. We used only people that the clients asked us to use in determining whether the re-
[38] lationship was or was not broken, and we tried to work with the client, and if she could not think of any way that she could establish that the relationship was broken, then we would maybe suggest to her that she might possibly do this: if she said the man was gone, but had no evidence, we would say "Well, we will be glad to talk with his family, if this is agreeable with

you," or in some instances, we have written to other counties when the people had moved——

Q. Do you recall the kind of evidence that you used to raise for the first time with the recipient the question of whether or not there was a substitute parent?

A. Well, now, a lot of times——

Q. Other than what the recipient themselves told you.

A. Well, that was the majority of the time. Well, sometimes if the client was pregnant, we would ask her, "Are you maintaining marital relationship with someone?" and they would say yes or no; and if they said no, we would say, "If this is true, we will try to work with you in establishing that your relationship with the man is broken." In doing [39] this, when we would go out, and the woman would say that she could think of nobody right now, that she couldn't think of anybody that could establish that the relationship was broken, the case was not terminated immediately. The client had two months all told to help us find some way to establish her eligibility for continued assistance.

Mr. Garbus: I have no further questions.

Further Deponent Saith Not.

[40] **Certificate.**

State of Alabama,
County of Montgomery.

I, Ira Fred Watson, a Court Reporter, and a Notary Public for the State of Alabama at Large, do hereby certify that I reported in shorthand the foregoing deposition of Jacquelyn Stancil, at the time and place stated in the caption hereof; that the witness was by me sworn to speak the truth, the whole truth, and nothing but the truth; that the witness was examined by counsel; that I later reduced my shorthand notes to typewriting, or under my direct supervision, and that the foregoing

pages, numbered 3 through 39, both inclusive, is a true record of the testimony given by the witness.

I further certify that I am neither of counsel nor of kin to any of said parties to said cause, nor in any manner interested in the outcome thereof.

I further certify that the reading and signing of the deposition by the witness was waived by counsel and witness present.

This 28 day of March, 1967.

IRA FRED WATSON,
Court Reporter-Notary Public.

* * * * * * * *

DEPOSITION OF JEAN M. JOHNSON.

(Caption Omitted.)

(No. 6 as noted on p. 2 of stipulation filed 4-27-67.)

March 9, 1967.

Montgomery, Alabama.

[1] Deposition of Jean M. Johnson, taken in the above-styled cause, pursuant to the Federal Rules of Civil Procedure, on the 9th day of March, 1967, at or about 4:30 p. m., in Room 552, State Administrative Building, Montgomery, Alabama, before Ira Fred Watson, a Court Reporter, and Notary Public for the State of Alabama at Large.

Appearances:

Mr. Charles S. Conley and Mr. Martin Garbus, appearing on behalf of Plaintiffs.

Mrs. Mary Lee Stapp and Mrs. Carol Miller, appearing on behalf of Defendants.

[2] **Stipulation.**

It is stipulated and agreed by and between parties that the Deposition of Jean M. Johnson may be taken before Ira Fred Watson, as commissioner, in Room 552, State Administrative Building, Montgomery, Alabama, at or about 4:30 p. m., on the 9th day of March, 1967; and that all notice and issuance of a commission are waived; and the parties further agree that the submission of said deposition to the witness for reading and signing is waived, the said deposition to have the same force and effect as if full compliance had been had with all laws and rules of court relating to the taking of depositions. It is further agreed that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for both plaintiffs and defendants may make objections and assign grounds at the time and place of trial or at the time the said deposition is offered in evidence or prior thereto.

It is further agreed that notice by the party taking the deposition of the filing of said deposition to any or all other parties is hereby waived.

[3] **Deposition.**

JEAN M. JOHNSON,

being first duly sworn, was examined, and deposed as follows:

Direct Examination,

by Mr. Garbus:

Q. How long have you been employed by the Department of Pensions and Security?

A. Since October, 1960.

Q. And have you been employed since that time in Dallas County?

A. Yes.

Q. How long have you been familiar with Mrs. Sylvester Smith?

A. With her case?

Q. Yes.

A. Since, I suppose, October of 1965, when I became A.D.C. Supervisor.

Q. What had you been doing before that?

A. I was Child Welfare worker. Also, I had worked with the Department in 1943 for two years, as a case worker.

Q. Did you have a conversation with Mrs. Stancil in about August or September of 1966 concerning [4] Mrs. Smith?

A. Yes. She told me that Mrs. Smith was not satisfied and did not seem to understand the policy, and did want to talk to the Supervisor.

Q. Did you have any contact with Mrs. Smith prior to August of 1966?

A. No.

Q. Other than looking at her file. And then when you took your new position, the first time you met her was after Mrs. Smith had had her conversation with Mrs. Stancil?

A. That's correct.

Q. At the time that you were A.D.C Director——

A. Supervisor—Case Work Supervisor.

Q. ——How many cases were closed in Dallas County because of the substitute parent policy?

A. I believe it is in that information in the letter which Mrs. Stancil sent to Mrs. Stapp. I was not the Supervisor when the substitute father policy went into effect in 1964.

Q. Do you know how many closures there were of cases because of the substitute father regulation's various sections—namely, where cases were closed because the substitute father lived in the home, or because he was not living in the home, but was [5] visiting frequently, and

because, though not frequenting the home, he cohabited with the child's mother elsewhere?

A. No, I did not break them down.

Q. Will you break that down for me?

Off the record.

(Remarks off record.)

Mrs. Stapp: I will add this list to the other counties in which he requested this information.

Q. (By Mr. Garbus) Mrs. Johnson, I show you the substitute father regulation which uses the language "cohabits," and ask you if it is your understanding that "cohabits" means sexual relations as used in these regulations?

A. Yes, that's correct.

Q. Now, the second portion of that regulation provides: ". . . though not living in the home regularly, he visits frequently for the purposes of cohabiting." What is your understanding of what the term "regularly" means in that provision?

A. Well, I think it means on a continuing basis.

Q. In other words, though not living in the [6] home, on a continuing basis?

A. Yes.

Q. And how often does that mean—. Withdraw that. If a man is not living in a home on a continuing basis, but visits the house once a month for the purpose of cohabiting, is that, so far as your understanding of the regulation, sufficient to be presumptive evidence of a substitute father?

A. Well, I think it would depend upon the intent of the persons involved, whether they intended to have a continuing relationship or not.

Q. In other words, the mere fact that the people cohabited once a month would not, in and of itself, so far as you are concerned, indicate whether this was prima facie evidence of a substitute parent?

A. Maybe he traveled, maybe he was only home once a month. I think it would depend on the individual case and intent of the parties.

Q. In other words, as I understand your testimony, if you were told that they were having a sexual relationship once a month, you would then inquire further from the mother to see what [7] her intentions were with respect to this man?

A. Yes.

Q. Whether you felt that there was a possibility of there being a permanent relationship between them?

A. Yes.

Q. How would you go about finding this out?

A. Well, I think that it would be hard to assume that it was permanent. I think "continuous" would be a better word.

Q. How would you go about determining whether it was continuous?

A. Well, I think that the worker would talk with the mother and also with the father if it were indicated.

Q. What kind of questions would be asked?

A. Well, how she felt about the man, what her intentions were, whether she intended to keep on with her relationship, or whether it was just a casual thing, or whether it had meaning.

Q. Would you ask how the children felt about the presence of the man?

A. Yes.

Q. Would you also ask how the respective [8] families, if there were, felt about the relationship?

A. What respective families do you mean?

Q. The parents of the mother and father that may enter into a permanent or more continuing relationship.

A. Well, I don't know that that would be indicated, unless perhaps they were living in the home of her parents.

Q. And you would ask these questions both of the mother and the substitute parent?

A. Yes, if it would be possible.

Q. In your experience as a case worker, have you asked these questions of mothers and substitute parents?

A. Well, now, I am not a case worker at this time, so I do not actually have contacts with the clients myself.

Q. How many case workers do you have working under you?

A. I have five.

Q. And the procedure that you have just outlined is the procedure that the case workers who work under you would do, is that right?

A. Yes. I don't think that they would make [9] a snap judgment; they would look into it more thoroughly, and examine each case on an individual basis.

Q. Assuming, now, that the mother and the substitute parent said that, although they cohabited only once every two months, they intended to do this on a permanent basis: would that be a basis for a prima facie presumption that the substitute parent rule should apply?

A. As Mrs. Stancil said, we never have had an actual case that I can recall where they said it was once a month; but I assume that if it were considered permanent, as you say, that it would be considered a substitute parent.

Q. And that would be irrespective of whether the sexual relationship was in the home or outside of the home—is that right?

A. Yes.

Q. And so, if parties engaged in sexual relations once every two months outside of the home, but told you that they intended to continue to do this, it would be sufficient to warrant that they be denied aid under the regulation?

A. Now, do you mean with the same man, or [10] do you mean different men?

Q. With the same man.

A. I would think that they would consider that——

Q. Prima Facie——

A. ——a marital relationship, if they continued to do this.

Q. Would your answer be the same if it were once every four months, and if the woman and the substitute parent told you that they intended to have these sexual relationships once every four months?—would that be sufficient prima facie proof to deny aid?

A. I believe I would have to call the State Department on that and see what they say about that.

Q. Now, in a situation where you receive an anonymous call or an anonymous letter that someone is having a relationship, whether it be once a month or once every two months, what is the procedure that your case workers adopt?

A. Well, as I say, we haven't had one once a month. If we received an anonymous letter that someone was maintaining a marital relationship, we would try to talk with the mother and lay the [11] facts on the table, that we had received this information, and give her a chance to be heard about it.

Q. If she denies it, then what happens?

A. Well, I think a lot would depend on—. Now, we have had one case like that where we had several letters from time to time, and we did know that the man was living very nearby, and that it was very possible that he was having a continuing relationship with the woman; and I believe that we did talk to her about it, and try to get references that could verify that she was not.

Q. And what happened?

A. And I believe that we did prove that she was not. We have to try to consider the reasons for people doing this. Sometimes a neighbor may get cut off, and they for some reason or another want to spite someone else, and we have to realize that they may have a motive, such as that, and not take it on face value without looking into it very thoroughly.

Q. Frequently you look into the motive of the person who has told you this information?

A. Well, we feel like that might be the reason, [12] and we don't just jump to conclusions that the woman is doing this.

Q. Have you ever been involved in any cases where the recipient who had been cut off has submitted evidence showing that the relationship has been discontinued?

A. Yes.

Q. Approximately how many cases has that happened, in your experience?

A. Well, I don't know exactly, but a number of cases.

Q. What are the kinds of references that the woman uses?

A. Well, we try to get references from people who would be in a position to know; for instance, maybe her grocer.—Maybe the man has been buying groceries every week, and he suddenly stops buying them, and she says that the relationship is broken, and the grocer says that he has not gotten any groceries and taken them there, and we feel that is a good indication that the relationship is broken. And the minister would know—neighbors; but we don't just go on the fact that they say he is not going there. We want to know how they [13] know that it is broken.

Q. Do you actually go out into the field and visit the references, or do you have them come in to your office?

A. Well, whichever works out the best at the time. Perhaps they bring someone in, and perhaps we go out if it is not convenient for them to come in. We try to help them in any way that we can to get this information, and we do try to get it in writing also from two references, but we feel like we do need to talk with them as well as have it in writing.

Q. Before you go out to see any of these references, do you first clear it with the recipient?

A. Oh, yes, they tell us who can give us the information.

Q. Now, you say they tell you—this is in response to your question——

A. That's right.

Q. ——that this is what is required to show that they are entitled to aid?

A. That's right.

Q. Now, what happens in a situation where [14] they don't give you references, or where they say, in effect, that it's none of your business—what happens then?

A. Well, I don't believe that we have had any that told us that, but we do tell them that it is necessary that we have some proof.

Q. And that unless they give you these references, that their aid will be terminated—is that right?

A. Well, I believe it would be. As I say, they will try to cooperate with us, because it is to their advantage to help us prove that they are eligible.

Mr. Garbus: I have no further questions.

Further deponent saith not.

[15] **Certificate.**

State of Alabama,
County of Montgomery.

I, Ira Fred Watson, a Court Reporter, and a Notary Public for the State of Alabama at Large, do hereby certify that I reported in shorthand the foregoing deposition of Jean M. Johnson at the time and place stated in the caption hereof; that the witness was by me sworn to speak the truth, the whole truth, and nothing but the truth; that the witness was examined by counsel; that I later reduced my shorthand notes to typewriting, or under my direct supervision, and that the foregoing pages, numbered 3 through 14, both inclusive, is a true record of the testimony given by the witness.

I further certify that I am neither of counsel nor of kin to any of said parties to said cause, nor in any manner interested in the outcome thereof.

I further certify that the reading and signing of the deposition by the witness was waived by counsel and witness present.

This 28 day of March, 1967.

IRA FRED WATSON,
Court Reporter-Notary Public.

* * * * * * * *

DEPOSITIONS.

(Appearing on p. 2 in stipulation filed 4-27-67 as follows):

Lucy K. Locklin—No. 13
Augusta L. Wilkinson—No. 10
Katie B. Shaw—No. 7
Nan C. Murphy—No. 11
Myrtle S. Preer—No. 8
Blanche Saunders—No. 9
Ada Kate Posey—No. 12

Heard in
Montgomery Alabama,
April 5, 1967.

(Caption omitted.)

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[1] Appearances:

Mr. Martin Garbus, appearing on behalf of Plaintiffs.

Mrs. Mary Lee Stapp and Mrs. Carol Miller, appearing on behalf of Defendants.

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[2] **Stipulation.**

It is stipulated and agreed by and between parties that the Depositions of Lucy K. Locklin, Augusta L. Wilkinson, Katie B. Shaw, Nan C. Murphy, Myrtle S. Preer, Blanche Saunders and Ada Kate Posey may be taken before Lou M. Chambers as Hearings Reporter, in Room 552, State Administrative Building, Montgomery, Alabama, commencing at or about 10:00 A. M. on the 5th day of April, 1967; and the parties further agree that the submission of said Depositions to the witnesses for reading and signing is waived, the said Depositions to have the same force and effect as if full compliance had been had with all laws and rules of court relating to the taking of Depositions. It is further agreed that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions, and that counsel for both Plaintiffs and Defendants may make objections and assign grounds at the time and place of trial or at the time the said Depositions are offered in evidence or prior thereto.

It is further agreed that notice by the party taking the Depositions of the filing of said Depositions to any or all other parties is hereby waived.

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[3-a] EXHIBITS.

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[4] **Proceedings.**

Mr. Garbus: Mrs. Stapp, may we mark as Exhibit 25 the documents you previously furnished me dated March 22, 1967, in response to a request that I had made? The documents consist of three pages entitled Table 1 and Table 2 and Table 3.

Mrs. Stapp: That's identified further by naming the counties that are involved in those statistics, and I think that will . . .

Mr. Garbus: The counties named in the three documents are Baldwin, Chambers, Clarke, Dallas, Greene, Montgomery and Russell.

Mrs. Stapp: All right.

Mr. Garbus: Can we mark as Exhibit 26 four yellow sheets prepared by me containing certain statistics? The documents speak for themselves. Insofar as they are not clear with respect to the information contained, I'll furnish that information to you at some later time.

Mrs. Stapp: Mr. Garbus, I want to permit you to put in anything you want to as an exhibit at this point, but I'd like to let you know this may be self-serving, incorrect statistical information and that I'm not going to agree at this point to any of the truth of it, I mean, to what it represents until our statistician has had an [5] opportunity to look at it and see if it is correctly arrived at.

Mr. Garbus: If the information is correctly arrived at, will you then stipulate as to the truth of these statistics? In any way . . .

Mrs. Stapp: We will agree to the stipulation subsequently.

Mr. Garbus: Sure. In any way the statistics differ, will you set forth in the deposition or in a related document the manner in which your statistics differ from mine?

Mrs. Stapp: We can reserve the right, can't we, to make any further comments by way of corrections or additions. Bring all the witnesses in and swear them.

(At this point in the proceedings, the witnesses were duly sworn by Mrs. Mildred Fischer, a duly authorized Notary Public in and for the State of Alabama.)

Mr. Garbus: Can we mark as Exhibit 27 a document entitled "Excerpts from the Minutes of the Meeting of the State Board of Pensions & Security Held September 27, 1964." I'd like to mark as Exhibit 28 a document dated March 14, 1967, furnished to me by Mr. Steininger's office in Washington. This document contains informa-

tion which Mr. Steininger agreed to furnish me with at his deposition, this information that he did not have at the time he was [6] deposed. Could you mark, then, the exhibits?

(The documents above referred to were then so marked by the Reporter as Plaintiff's Exhibits 25, 26, 27 and 28.)

Deposition.

LUCY K. LOCKLIN,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Garbus:

Q. What is your name and address?

A. Mrs. Lucy K. Locklin, Eutaw, Alabama, Greene County.

Mrs. Stapp: That's E-u-t-a-w, you know.

Q. Are you presently employed by the State of Alabama?

A. I am.

Q. Are you the County Director of Greene County?

A. I am.

Mrs. Stapp: Pensions & Security.

A. Department of Pensions & Security.

Q. And with respect to Exhibit No. 25, had you furnished the information to Mrs. Stapp to answer questions that I have placed to Mrs. Stapp and this information is then used by you in the preparation of this?

A. This is correct. (After examining document.) Well, I'm familiar with these two cases.

Q. How long have you been the County Director of Greene [7] County?

A. Since June 1960.

Q. With respect to the case that was closed in July

of 1966 because of the existence of prima facie evidence, do you recall the facts of that case?

A. Well, now, the two cases that were closed in July, the one, let's see, the prima facie evidence—am I allowed to call names?

Mrs. Stapp: No, I think we'd better not.

A. Better not. Okay.

Q. Let me say Mrs. X and the other case would be Mrs. A.

A. On this particular case, we had a letter which is in our files stating that she was expecting a baby and we later verified that the baby was born, with verification, and she understood the policy and asked that her application be closed, in keeping with the policy. May I make one statement in regard to that? At the time this policy came out, my workers had a very strong working relationship with the clients. We had the confidence of the clients and they were in very good status of reporting changes to us, and as I said, a very strong working relationship existed there, and . . . .

Mrs. Stapp: Is this only the one case you're talking about?

[8] A. On all the cases, and when this policy came out, our first concern in regard to the policy was how it would affect the children involved. The second was how would it affect that relationship that had been established between the workers . . . at that time, I had only one, in July '66, one ADC worker, and how it . . . well, when the policy came out, I had two, and this held true at that time, too, but we have sought to establish a strong working relationship with our clients and the workers, and that particular worker that was on that July '66 case had maintained, even through all the closures of the cases, a strong relationship, and the person felt that she should write and let us know that she was going to have this child and that according to the way she understood the policy, she wouldn't be eligible.

Q. How old was she?

A. Now, we didn't stop with that. We talked with her again and went into whether the relationship was broken, whether she was still going to have it, and those aspects, and according to her statements, she did not, the relationship was not broken and she planned to continue the relationship. The baby was born and we explained to her that should a change occur and the relationship be broken, we would be happy for her to let us know, talk with us again, we would help her to [9] reestablish her eligibility.

Q. Now, you say you were concerned with how the substitute parent policy would affect the children?

A. Right. That was the major concern because we are interested in the children.

Q. And what is your feeling with respect to how the substitute parent policy has affected the children?

Mrs. Stapp: Are you asking what her feeling is or observation?

A. My feeling in regard to what I have heard, let me say this, too . . .

Mrs. Stapp: I'm going to object to her answering anything other than her observation. I don't think it's . . . I think it cannot be . . .

A. Well, this can be termed an observation, I think, Mary. Stop me if I'm out of order. When the policy came out, I had a staff meeting. I'd like for Mr. Garbus to know this, that right before going to Greene County, I had just finished some graduate work at FSU University and a lot of this was fresh on my mind and I had regular staff meetings every week and I pretty much passed on to my workers knowledge that was so fresh in my mind in regard to working with clients. This pertained to all cases. An individual is an individual and there are no two individuals alike. The same applies to individual [10] cases, and when the policy came out,

we had a staff meeting. This was brought back again to the attention that . . . and another thing that was emphasized at the graduate school, that when you work for an agency, you work under the policies of that agency. This was a policy, and as I said, our first concern was for those children, because we are . . .

Q. What was your observation about the application of the policy?

A. All right. Can I say two more things? Then I discussed it with my ADC workers. Then it was discussed with my board members. I have since been informed by board members and from observation and knowledge gained throughout the county of various individuals that the children have not been damaged. Some of the mothers have married the men and some of the mothers have become employed and we have helped them secure employment.

Q. You were concerned then originally that some of the children might be damaged by this policy, is that right? Off the record.

(Remarks were off the record.)

A. It has not damaged the children.

Q. Your original concern was that this policy might damage the children, is that right?

[11] A. Right.

Q. What was that original concern based on? Why did you feel this policy would damage the children?

A. Because basically our interest in the welfare of the children in Greene County.

Q. What made you believe this policy might damage the children?

A. Well, one thing, even though the ADC grant was low, it was some little monthly income that they could depend on. That would be taken away in the cases that had to be closed.

Q. Were you also concerned with the situation where a man in the house would be forced to leave the house rather than have the grant terminated to that particular family?

A. Well, that thought went through my mind in certain situations because, and it turned out it did happen that some did leave the home because the grant was terminated.

Q. And you were concerned about the effects on the children of the policy then that would drive the man out of the home, the man who had been playing the father role?

A. Right.

Q. Had it been your experience that very often these men in the house gave the children in the house a certain degree of affection and care that was important for the [12] children?

A. Somewhat of a father substitute, right.

Q. And this father substitute, you felt, based on your knowledge and experience and training, was important for the children to have, is that right?

A. In my opinion, my opinion is that children benefit from both a father and a mother if possible in homes.

Q. It's very important, then, if I understand what you're saying, for a child who is growing up to have both a male and a female figure in the house?

A. Right. It makes a more complete family unit.

Q. And when a child grows up in a family where there is no male figure, he suffers?

A. The mother has to play the role of both father and mother.

Q. And given the kind of women you have in your county in the economic situation, it places a stress on the women that they probably can't meet, isn't that right, to play both these roles?

A. In some instances.

Mrs. Stapp: What is your question, now?

(Remarks were off the record.)

A. Some women do. That still goes back to the concern for the children as to what was best for those children in [13] those families.

Q. Your answer, then, to keep the record straight, is it's very often too much stress to place on a woman to ask her both to be a male and a female figure for the children?

A. Often it is.

Q. And do you find emotionally that it's important for a child, whether the child be a boy or a girl, to have a male figure in the house?

A. Right, preferably under a legal set-up.

Q. But even in those situations where you do not have a legal set-up where the people have been living together for a long period of time, you find that they play a father role that's important to the children, isn't that right?

A. That's right.

Q. Now, Mrs. Lloyd who testified here last week indicated that very often the children called the substitute father "Daddy," even though he is not their real father; has that also been your experience?

A. That's true, and it's also true that the mothers don't withhold from the children the identity of their natural father.

Q. You find that it's rather open then that the children . . .

[14] A. It's rather open that they know who their real father is.

Q. How do the children respond to the fact that a substitute father is in the house who's not their real father? Don't they look toward that father for affection and care?

A. He's a substitute father.

Q. Then your answer is yes?

A. Yes.

Q. And that even though very often a father is not the

father of a particular child, he does give them this affection and care?

A. (Indicated affirmatively) To some extent. Now, maybe not to the extent that the real father would, but he plays in a minor role and gives to those children a little more security than they would have just with the mother playing the dual role. Now, in our county, I think, in our county the mothers have done a wonderful job fulfilling that dual role of father and mother.

Q. Now, in the case that you've just talked about where the client wrote a letter to you indicating that she was pregnant, do you know how many months pregnant she was at the time she wrote the letter?

A. Yes. She, well, you know, we do our reviews every six [15] months and the worker had done a review in February and she maintained in this letter that she did not know at the time the review was made that she was pregnant, but the baby was expected during the month of July, and that would have made her nine months because it was a full-term baby. She was in her ninth month at the time she wrote the letter, and the baby was born within. . . . I don't know the exact time, but within a period of from 10 days to two weeks time after we received the letter.

Q. Now, after you received the letter, as I understand your testimony, did you then contact her?

A. We contacted her and explained again to her should the relationship . . . we asked her had that particular relationship been discontinued, had she quit cohabiting with that man . . .

Q. You use the term "cohabit" . . .

A. Yes, we do.

Q. By "cohabiting," you mean having sexual relationship?

A. Right, and it had not, she said that it had continued and they planned to continue, and we told her if it should discontinue, to please . . .

Q. When she said "continuing," do you know how often she was seeing the man?

A. In that particular case, I don't believe I do. Now, in [16] some of the cases, they did tell us, you know, but that's something else, now, that goes back to that individual as to how often and certain other factors in the situation that would have bearing on that, number of times.

Q. Do you know in this particular case whether she had seen the man at anytime, let's say, four months prior to the time she sent the letter to you?

A. I just don't . . . I can't answer that and give you a direct answer. In regard to the latest date she had seen him or how often she had seen him, now, I just don't remember that particular fact in that particular case.

Q. Can you get that information to us if we leave a space for it in the deposition?

A. I can. "The client was pregnant in September 1965 and the baby was born in May 1966. The last review was made in February 1966. A letter was written 7-25-66 which reported the birth of the baby. The alleged father saw the mother two times after the baby's birth. He paid the midwife $20 and bought the child five dresses."

Mr. Garbus: Can we mark that as Exhibit ...

Mrs. Stapp: We're going to put them in as exhibits?

Mr. Garbus: The schedule sent in from Greene County concerning the cases that are discussed will be Exhibit 29. Can I have that now? We'll start to mark that.

(The document above referred to was then so marked by the Reporter as Plaintiff's Exhibit 29.)

[17] (Questions by Mr. Garbus cont'd:)

Q. Now, when a new case worker comes onto your staff, do you discuss with her the manner in which the substitute parent policy should be applied?

A. I will, but I haven't had . . . well, I have had one new case worker come on and it has been discussed and the two that were working at the time the policy was put into effect, I only have one ADC case worker now and she's been with the agency . . .

Mrs. Stapp: Excuse me, your answer to that was that you did discuss it with her?

A. I did, yes.

Mrs. Stapp: I think that's enough on that question.

Q. Now, the regulation uses the term, quote "Though not living in the home regularly, visits frequently for the purpose of cohabiting with the child's natural or adopted mother." Are you familiar with that clause?

A. Right, yes.

Q. How often is "regularly" as used in that regulation?

A. As for cohabitation?

Q. Yes.

A. Now, that, I've tried to tell you that just now, depends. You've got to look at the individual. You've got to understand that each individual is different. There are [18] other factors that enter into the number of times, you might say, per day, per week, per month or what.

Q. In other words, for one person, it might be once a week would be regularly; for another person, it might be that every two months would be regularly?

A. Right, now, depending on—and that's what I urge my workers to take into consideration, that individual differences in the individual cases, and one right in the beginning——

Q. So what you're saying, if I can interrupt you, is that you really can't say any specific amount of time as regular?

A. I can't.

Q. But rather it varies depending on other kinds of factors, is that right?

A. That's right.

Mrs. Stapp: All right. I think that'll take care of that question.

Mr. Garbus: Off the record.

(Remarks were off the record.)

A. And I want to ask you one, too.

Mrs. Stapp: Now, listen, we've already——

A. We'll make this brief. Let's just talk about this just a little bit. And your question again, what do I consider the number of——.

[19] Q. The other factors.

A. Oh, the other factors. I would say factors affecting the number of times, as I said, daily, weekly, monthly or ever how often they cohabit, would be the ages of the individuals, the things, like, well, I can think of one case situation where the man involved worked from Monday to Friday in another county. He was only home on weekends. His mother lived right next door but he spent the weekend with this person for the purpose of cohabiting with her over the weekend. In certain situations, now, they can cohabit, well, they've been very frank to tell us, in some cases, two or three times a week. Some of them once a week. Some of them, say, twice a month, but they consider it a regular continuous procedure.

Q. In other words, one of the elements would be whether the client thinks the relationship is regular and continuous?

A. Right, and that's an important factor.

Q. So that if the client feels that once every six months is regular and continuous, then you would——

A. And meets those two individuals involved, then I think that should be taken into consideration.

Q. So that you could apply this substitute parent rule in [20] a situation where the client and the man felt that the relationship that resulted in their cohabitation once every six months was regular and continuous?

A. Regular and continuous and unbroken.

Q. This then would be a case where the substitute parent rule should be applied, is that right, where you had this regular continuous relationship where they co-habited once every six months?

A. Yes.

Q. Your answer is yes?

A. Yes.

Q. Now, the third provision of the substitute father regulation provides "He does not frequent the home but cohabits with the child's natural or adopted mother elsewhere." Now, will your testimony be the same with respect to that clause, namely, that if they cohabited outside of the home once every six months but it was regular in the client's eyes and continuous in the client's eyes, then this would be a case where the substitute parent rule should be applied?

A. (Indicated affirmatively.)

Mrs. Stapp: What was your answer to that?

A. That's yes.

Mrs. Stapp: Let me ask you this, Lucy. In other [21] words, you're saying you've never had an actual situation where this was involved?

A. No actual situation where there was one procedure of cohabitation in a six months period, no.

Q. (Mr. Garbus) Very often, then, based upon your experience, you'll find that a client is wrong about what constitutes a continuous and regular relationship, is that right?

A. I wouldn't exactly say that they are wrong. They pretty much—when it's pretty regular, except now on that six months deal. Now, that's pretty far fetched, you know.

Q. Did you have a case in your experience where a woman thought the relationship was continuous and regular but the man never came back?

A. Yes. I mean, he came back to the community but not to her.

Q. So the woman was wrong about——

A. And we reestablished her eligibility and put her back on the——

Q. How long was she ineligible because she was wrong about whether the relationship was continuous and regular?

A. Well, I can't answer that exactly, but it was a short period of time.

[22] Q. Several months?

A. Several months.

Q. Do you know how many children were in that household?

A. There were five, but one had reached the age of being past 18, was not in school, so that one would have been ineligible. There were four involved. It ended up there were three.

Q. So as I understand your testimony, then, when a woman tells you the relationship is continuous and regular, you or one of your case workers then checks the relationship out, is that right?

A. Yes.

Q. How do you do that?

A. Well, we've talked with her and then we talk with the alleged father and——

Q. Do you ask her how often she sees the man?

A. In a majority of the cases——

Q. Or do you just ask her if it's continuous, and if it is continuous, do you then take her word for it that it is continuous and regular?

A. Well, in the majority of cases, it comes out approximately how often and it's usually three or four times a week or either it's on that weekend procedure. In our county, that's the way it's affected most of them.

[23] Q. Now, when you ask if the women are cohabiting, they reply to that terminology?

A. No, they don't exactly know what cohabiting means. We have to put it in simple words.

Q. How do you place the question?

A. "Do you have sexual intercourse" or "Do you have sex relations with," and they understand that.

Q. And then their answer would be yes or no, is that right?

A. Yes, that's right.

Q. And then do you then ask them how often they have it?

A. And when maybe was the last time they came and when do they maybe expect them back and you get a pretty clear picture.

Q. And then do you find often that the men stay in the house and sometimes don't have sexual relationships with the women?

A. We haven't found that in the few cases where they just set up in the house with them, I mean, just stay in the house. Most of ours were in and out of the home and——

Q. Is one of the factors with respect to whether the substitute parent rule should be applied whether or not the children know of the existence of the other man? For example——

A. Repeat that, now.

[24] Q. Would it be at all relevant if in the case where the man never comes into the home and has sex with the woman outside of the home once or twice a week or once a month or once every six months, if the child does not know of this relationship——

Mrs. Stapp: Has she testified that she knew of any of those cases in her county?

Mr. Garbus: I don't believe so.

Mrs. Stapp: Have you testified that you knew of any of those cases?

A. No, I was thinking about the only case that would

come near being in that category was one that the man was in, I mean, he cohabited with the mother, the children knew him, he would come and cut wood, but the two oldest children in that family, one was 11 and one was 12-year old girls, and even though the mother had had these children, she did not want the children to know that she was cohabiting with this man that apparently just came there to cut wood. So in order to cohabit, they would go off in the automobile for a ride. Now, we never learned—we observed and we were as tactful in our gaining of information as we could be to determine if those girls were suspicious of such or not, but to our knowledge, we don't know whether they had any idea about [25] it, but the mother was trying to keep that . . .

Mrs. Stapp: This was the only case of that sort that you know of?

A. That's the only case of that sort that I know of.

Q. (Mr. Garbus) What about the other case in your county? You've told us about one that went into the preparation of Plaintiff's Exhibit 25.

A. That's July '66?

Q. (Indicated affirmatively.)

A. Well, this other one, that was another situation that we got the information from both persons involved as to the continuous relationship in their cohabiting, and then she did have a baby and . . .

Q. When is the person cut off from aid—when you receive the letter from her or the statement?

A. Oh, no. We don't do that. We find out more details about the situation because things could alter that situation and even though they were pregnant, that relationship could be broken between the mother and the father of that unborn child or either that young child. Well, I can think of one instance where the baby was born and two weeks later, the man was in an automobile accident and he was completely out of the picture then. He was just not there.

Q. So in that particular case, the woman was never cut off?

[26] A. That's right, until we can definitely prove, and that's what I urge my counselors to do, take each case situation and be absolutely sure that there is knowledge there that . . .

Q. Do you ever talk to your counselors about what the terms "frequently" or "regularly" mean, or do you just tell them that each case depends on its own . . .

A. We don't know. Now, that was my question—in all my studying and in all my training, and I'm 50 years old, I have never heard anybody make a definite statement as to a number of times that would be considered *the* number of times that a person would normally cohabit. I think it still goes back to the individuals involved.

Mr. Garbus: I have no other questions of this witness.

Mrs. Stapp: Yes, I do have one.

Cross-Examination.

Questions by Mrs. Stapp:

Q. Do father substitutes provide economic help in families in your county?

A. Some do, in the manner of bringing groceries at certain times. Now . . .

Q. All right. Now, let me ask you another. Do you know of instances where father substitutes actually give money in the home?

[27] A. In a few.

Q. And they do give groceries?

A. More often groceries.

Q. Do they sometimes provide clothing?

A. Sometimes on special occasions, such as Christmas or Easter, or very little then.

Mr. Garbus: I have a question, if you want me to, while you're thinking.

Mrs. Stapp: Yes.

Redirect Examination.

Questions by Mr. Garbus:

Q. When you discuss with a client the father substitute, you address yourself to the question of the sexual relationship, is that right? That's the basis for the application, as you understand it, of the substitute parent role?

A. That's right, and they were placing this man as a substitute father.

Q. Whether he gives money or support is not relevant to the question?

A. That's right. Cohabiting with him and it being a continuous——

Q. The only question then is whether or not there is a continuing and regular sex relationship as that rela- [28] tionship is defined by the client, is that right?

A. That's right.

Mrs. Stapp: I don't know that I have any other questions. I believe you've covered almost everything.

Mrs. Locklin: Do you think so?

Mr. Garbus: Mrs. Stapp, can we stipulate that the table headings in Table 2 of Plaintiff's Exhibit No. 25 described as In the Home, In and Out of the Home, Prima Facie Evidence, relate to the three sub-divisions of the substitute father regulation?

(Remarks were off the record.)

Mrs. Stapp: This is a stipulation. In Greene County, Mrs. Locklin has no case work supervisors in her county department and she does the supervision of her case workers. Some counties have case work supervisors, such as Dallas County.

Further Deponent Saith Not.

Deposition.

AUGUSTA L. WILKINSON,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

[29] Questions by Mr. Garbus:

Q. May I have your name and address?

A. My name is Mrs. Augusta Wilkinson and I'm from Dallas County, Selma, Alabama.

Q. And were you previously sworn?

A. Yes, I was, a few minutes ago.

Q. How long have you been the County Director?

A. Let me see, since 1943, no, '44. I started in 1941—1944, I believe it was—November.

Q. Mrs. Wilkinson, you furnished certain information to Mrs. Stapp which was then used in the preparation of Plaintiff's Exhibit No. 25, Table 2, is that correct?

A. Yes, that is correct.

Q. Did you, in the preparation of that table, respond to schedules sent out to you by Mrs. Stapp or Mrs. Jordan?

A. Yes.

Mr. Garbus: We'll mark as Plaintiff's Exhibit 30 a letter dated March 13, 1967, which contains that information.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 30.)

Q. Mrs. Wilkinson, is it your experience that the largest amount of cases that are closed under the substitute parent rule are closed in that situation where your [30] department is advised that the woman is pregnant or that there is a baby six months or under of age?

A. Well, I can't determine that because I haven't broken it down in that respect.

Q. Now, when a case worker first discusses with a client the possibility of the application of the substitute parent rule with that client, does the case worker ask the client whether or not she is having sexual relationships with a man?

A. Do you mean as far as when she has a child under a year old or do you mean——

Q. Does it differ in the various categories?

A. Well, no, but the thing is, when a person comes in to apply for assistance in our department, we have an intake worker who takes applications and then the case workers goes into the home and determines the eligibility of all the points, Mr. Garbus, and then in talking with her, of course, we also ask if there is a father, the fathers of these children; we might have from five to eight children, and they might have five to eight different fathers, and we attempt to determine each father and get them to give us the name so that we can get in touch with them to see what they will contribute. Now, it might be, for instance, in a case we had, not [31] recently, several months ago, we were talking with one man, in particular, who had some children, and we were trying to get this person to see what he would give to the woman of the children, and he said to me, when the worker came down, and he said "Mrs. Wilkinson, you are ruining our women, because she would be living with me today if it were not for the fact that she's getting assistance from your department if she does not care to come and stay with me." So we have problems of that kind, as far as the man is concerned, and of course, as you well know, in our colored race, we do have the matriarchal system where the woman will more or less be the head of the family in those instances, and not only those instances, but instances where the children are born in wedlock.

Q. In respect to that provision of the substitute father regulation which provides that the rule may be applied

although the substitute parent is not living in the home regularly, he visits frequently for the purpose of cohabiting, how often is "regularly" and how often is "frequently"?

A. Well, that is one point that we don't ask, because it's evidenced if there's a child there and the mother tells us that the man frequents her home; we don't ask.

[32] Q. In other words, if the mother says——

A. We don't ask how many times you're coming in and having sexual relations with this man unless there's no child and then we do ask.

Q. So as I understand your testimony then, if the mother says that the man comes frequently, you don't ask how often frequently is?

A. We don't ask how often. We think that is a private matter with the mother. We know that—we just ask if she is staying with the man if he is providing her with clothing or with money of any kind and she tells us.

Q. If the man is not providing clothing or money but is, according to the client, staying there regularly or visiting frequently, that is, as I understand the substitute father regulation, sufficient reason for closure, isn't that right?

A. That's right.

Q. Now, do you draw any distinction between the terms "regularly," "frequently," or "continuously," or do they have the same meaning with respect to when a client indicates whether the relationship is continuous, whether the man visits regularly or frequently?

A. Well, you take it on an individual basis and each case is different. One man might be on a trip for a month [33] just like a father who is traveling, he could come home, or it might be another man is—a different angle. You can't just take them all in one broad phase of it. You have to take it individually.

Q. So it might be that in one case, he could be coming——

A. That's right, two or three times a week or it might be once a month or once every two or three months.

Q. So that you could have a closure if it was once every three months in certain situations?

A. Depending upon the mother's statements as to what she considers as far as the father being there and as a member of the household.

Q. In other words, if the mother considered a relationship continuous, and as I understand your testimony, that's the term that is used rather than frequently or regularly, as you speak to the women?

A. That's right.

Q. Then you're satisfied with the client's version of the relationship?

A. Well, also, if we're not satisfied, well, then, she is not satisfied with it, then we ask for references with whom we can talk and she gives us the names of people who would know that the man is living there or is not there. It could be a neighbor, it could be a grocer, [34] it could be her minister.

Q. So if the client were to tell you the relationship is continuous and she has seen the man once in the last three months but intended to continue to see him once every three months and have sexual relationships with him——

A. That's right. The children——

Q. That would be a case where the substitute parent rule should be applied?

A. You see, the idea, Mr. Garbus, is, we feel that when children are in a home that they have a right to a normal home and the father is quite a big wheel, more or less, in that case, and the children know their fathers. You would be surprised at the number of children where the fathers don't come in but maybe very seldom, but they call them "daddy" and they know who they are.

Q. It's important to the children?

A. Yes, it's very important to the children, and we're

concerned with the children, you see, primarily, because after all, they are the future citizens.

Q. It's important then to the children, as I understand your testimony?

A. Yes, that's right.

[35] Q. To have their fathers near them in the home or visiting them, is that right?

A. As well as to know that they are loved by those men, and even so, they do have a relationship there, whether it's wed or unwed.

Q. It's important then to keep the father-children relationship for the well being of the child, isn't that right?

A. That's right.

Q. And one of the functions of your agency, I suppose, is to encourage the father?

A. We talk with the father and see what the father says, and they will run to them and say "My daddy brought me a suit of clothes," or "My daddy took me to the picture show," or "My daddy took me to get ice cream, an ice cream cone," so there is a relationship there with the mother, whether she's cohabiting, whether she's frequenting or living with him, and there is a love there with the father.

Q. Have you during the course of your observations come to any conclusions with respect to whether the application of the substitute father rule encourages or discourages the father who is not presently living with the mother from coming in to visit the child that is his?

A. I wouldn't be able to answer that.

[36] Q. Have you made any observations with respect to whether or not the application of the substitute father rule discourages men who are not contributing to the support of the household from living there?

A. No, I don't think it discourages them. I think they still just continue to come.

Q. Even though they know that as a result of their continuing to come, aid will be cut off to the woman?

A. That's right, because I think then they assume some of the responsibility that they should have assumed for some time.

Q. Has it been your experience—withdrawn. Do you know of particular cases where—withdrawn. What is the percentage of cases that you know of——

A. I couldn't tell you that in number.

Q. ——where people were cut off aid and then a father contributed to the support of the entire household?

A. Well, we know of some of the cases that were cut off in the past three years. They haven't returned to the agency, and from that, we feel that that is evidence that the father is taking care of those needs of the children.

Q. And based on the fact that——

A. Because they would come back, they have a right, because [37] when they come and we would tell them that they are ineligible, we tell them that they have the right to appeal the case and if their situation should change, they have a perfect right to come back and discuss it with us, and some have, but before . . . let me bring this out, Mr. Garbus, I think it's rather significant, and that is this, that when a mother is told that her check will be cut because there is a substitute father, oftentimes we do not close that case. We might close it for financial assistance, but they sometimes might need the social services that we can give, and we have had many mothers that we have helped find jobs and also place some children maybe in a boarding home so the mother could work if she says the man is not contributing, but we help her get a job, and then if the child needs to go into a boarding home, day-care home, I meant to say, we can do it.

Q. How often are there cases where you close because of the substitute father regulation, are children sent into boarding homes?

Mrs. Stapp: She's corrected that and said "day-care."

A. I said day-care homes, I beg your pardon. I don't

know, a small percentage, because most of them don't want it. They'd rather stay within their own little scope of [38] living, because the father continued to help the other children.

Q. Would you say in one percent of the cases?

A. I couldn't tell you that, Mr. Garbus, because I'd be telling a story. I would be just reaching out. I don't know. I want to be honest.

Q. As I understand your testimony then, when the woman is advised that her aid will be cut because she has just told you of the continuing and regular relationship that she has, you then ask her whether or not that relationship is broken or is bound to be broken, is that right?

A. Yes, and oftentimes, I don't know what percentage you could say of that, they don't want it broken.

Q. You find that some of the relationships are sufficiently stable?

A. That's right. They're stable. That's right.

Q. Has it been your experience that many of these relationships where you don't have the benefit of clergy are long-term, relatively stable relationships?

A. We have found, Mr. Garbus, that we have been able to see to it that a healthy mother and father are married, because sometimes that stands in their way, there might be a wife living and the man hasn't the money to pay for a divorce and then they want to get some help along [39] these lines and we help them in that way.

Q. So it is your understanding that many of these relationships eventually blossom into marriage very often as a result of the help you've given the relationships?

A. That's right, and they're still there.

Q. Beg your pardon?

A. They're still there over a period of time, they continue.

Q. Very often then, in your experience, these relationships have a certain degree of stability?

A. Yes.

Q. Some of them resulting in marriage, as you've previously testified to, and others, not resulting in marriage, the people nevertheless stay together for long periods of time, is that right?

A. Yes, that's right. Now, in some instances, they don't. I couldn't tell you the percentage of that.

Q. Then the stability of these relationships is very important to the emotional well being of the child—that's what you're concerned with?

A. Yes, we are concerned with it.

Q. And if you find the relationship is relatively stable, you would do your best to keep that relationship up so that the children would not be damaged by . . .

[40] A. That's what I say, by trying to give social services with that family group when it's needed and when they ask for it, we will so offer it.

Q. Because of the cultural differences, let us say, between the races . . .

A. That's right.

Q. One finds, based on your experience, that this unwed relationship closely approximates a marital relationship, doesn't it?

A. Yes, even if they had two or three other families.

Q. What do you mean by "two or three other families"?

A. Well, I mean by that, there are some men that . . . well, one, for instance, in one particular case I remember so well, that the chauffeur of a prominent man had about six families, if I'm not mistaken.

Mrs. Stapp: Off the record.

(Remarks were off the record.)

Mrs. Stapp: Was this an actual case?

A. No, these are actual cases that were receiving aid for dependent children. There were five or six women

that had children, but I knew of the father of all five or six.

(Questions by Mr. Garbus cont'd:)

Q. And he was performing the role of father to all five or [41] six?

A. He was giving to all of them.

Q. Giving them each a certain amount of love, affection and feeling?

A. That's right.

Q. Isn't it your experience that more often than not the man does not have that many families?

A. Oh, no, I don't think so, that we know about.

Q. Generally, the man has one family and whether they're wed or not, he treats that as his family?

A. Or they could have one or two outside families.

Q. But generally, even though a man is living in a home and has children by that woman and though he is not wed, generally does not go outside of the home to have other families?

A. Now, what's that? A woman that . . . a man that's married, he might go into one of our homes and be a father there just as well as he is to his wed wife.

Q. I'm saying that's also the practice in this other relationship that we're talking about?

A. That's right.

Q. As I understand the substitute parent policy sub-division 3 . . .

Mrs. Stapp: Your sub-division 3.

[42] Mr. Garbus: No. Your sub-division 3.

Q. (Mr. Garbus) The policy is applicable where the man does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Now, in that situation, if they cohabited once every six months elsewhere and the woman thought that was continuing and a regular relationship, that would be, as I under-

stand your previous testimony and the statute, a ground for invoking the substitute parent policy?

A. Uh-huh.

Q. Answer yes.

A. Yes. Excuse me. I just said uh-huh.

Q. Now, the statute uses the term—regulation—the regulation uses the term "prima facie evidence," and says that pregnancy or a baby six months or under is prima facie evidence of a substitute father. What do you understand by the term "prima facie evidence"?

A. It's meant by that there's been a man on the scene for a woman to have a baby. She didn't have it by herself.

Q. And that once there is a pregnancy or a baby born . . .

A. That's right.

Q. Then the burden shifts to the mother to show that the relationship has been broken?

A. That's right, when she makes a statement, if she comes [43] in, and then we ask if that has been broken, the relationship, would she make a statement, and then we get references to verify it. We don't like to cut people off, Mr. Garbus. It's a matter of the smaller grant that we can give to those people, and isn't it better for a child to get a little more than 2 cents, to get a dollar, because after all, that is the responsibility of the father who sires, pardon the expression, that child, to do his part. Let him have the right. I think he has a right to take over the responsibility of his own child.

Q. Have you ever, with the mother, initiated any support proceedings against any of these fathers?

A. Yes, we have in some cases, we've tried to. First we try to bring them to the office and talk with them and then, you no doubt know, sometimes they say that they're not the father, but it's hard to get support oftentimes from these fathers because of legal involvements.

Q. What do you mean by "legal involvements"?

A. Well, by that, we don't have the power, as far as the man, if he says he's not the father of the child, we can't . . . sometimes we have been able to get support when there's a more stable relationship. Each individual case is what we have to go on, Mr. Garbus. For [44] instance, one case, you can say, we can talk to the man in the office and he'll say that he'll do something each month for this child, if he's broken the relationship. Another time is that we could bring him into court and then at the time he's acknowledged paternity to us, he'll deny it and the lawyer will deny the fact that he is the father of the child.

Q. In what percentage of cases where you close the case because of the substitute father rule do you initiate a support proceeding?

A. I couldn't tell you that.

Q. Do you think it would be more or less than 2 percent of the cases?

A. Probably so, I just don't know.

Q. Do you know the percentage of cases where you were successful in getting support when you've had a closure because of the substitute parent rule?

A. I'd say a small percent.

Mrs. Stapp: This is in court proceedings?

A. In court proceedings, a small percent.

Q. By "small percent," would that be less than 1 percent?

A. My percentage is . . . I could say 1 percent, it could be minus 1, a half a percent, I don't know, I really don't. I think that it's also interesting, Mr. Garbus, that in [45] the caseload that we have in our county, that 89 percent of all cases receiving assistance are negroes, and that in our ADC cases where we have 375—that's the count as of right now in this past month—that we only have 6 white cases. So you see, they are predominantly from the negro race.

Q. Have you had any . . .

A. And it's about 50-50. For instance, in the population, I believe we have 50.8 percent and then 49.2 percent. It's almost half and half, and it wasn't this way, oh, I'd say many years ago when I first started, because we had a so much larger percentage of the negroes, 60-40, than we have now. It's more even, and the reason for that is that so many of them have left our county and gone up north to get jobs in areas where they could make more money and they leave so many of their children with their grandparents and the grandparents have the responsibility of them.

Q. Mrs. Wilkinson, I show you page 3 of Plaintiff's Exhibit 30 which purports to be case number 19012 in Dallas County, and in the case . . . and it indicates that the, quote, "People in the community informed the agency of the above facts," end quote. Do you recall how that was done by the people in the community? Was it done by [46] letter or by phone call?

A. I really don't know whether it was a phone call or whether they came in to see us. They come in quite often to talk with us about these cases, but I couldn't tell you about this one. Now, this, it says in here that the substitute father, it showed that he was in and out of the home on a regular basis when we talked with them. There are so many ways in which you can get information of that kind that it's hard to say, to pinpoint each case, unless I have the case before me.

Q. Has it been your experience that very often the mother and the substitute parent will not break the relationship even though the threat of cut-off is there?

A. I wouldn't say "often," but I would think so.

Q. And have you, as a result of this, formed an opinion with respect to the strength of these kinds of relationships if they can withstand that kind of pressure?

A. Well, we have a lot of pressures to stand up under,

Mr. Garbus, and that depends upon the individuals as to how much pressure they can take. I wouldn't know, but I think it would be up to them.

Q. But very often . . .

A. They evidently have some strength when they don't care to break the relationship.

[47] Mrs. Stapp: I'd like to ask a question right now rather than wait by cross—could I?

Mr. Garbus: Yes.

Cross-Examination.

Questions by Mrs. Stapp:

Q. Would one of the strengths be that economic help from the substitute father would be forthcoming?

A. Yes, I think quite often that it does come.

Redirect Examination.

Questions by Mr. Garbus:

Q. Do you know of any cases where the parties decided to continue the relationship after they had been living together for many years and the man gave monies that he had not given before?

A. Yes, I think that they do. I don't think that they're going to let their children suffer, as a rule, when they're cut off.

Q. But in these cases, was the man withholding money from his children?

A. He just wasn't giving it. He was having the privileges of a husband and a father, but he wasn't giving that money.

Q. Did that happen in any of the cases . . .

A. Some of them did. I couldn't tell you how many.

[48] Q. ——that form Plaintiff's Exhibit No. 30?

A. I don't know.

Mrs. Stapp: I'd like to ask one of my questions at this point.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Do you know of any situations where in an actual legal marriage the husband does not, in fact, provide economic help for a child?

A. Yes.

Q. Under our ADC regulations, can our agency make payments to families where there are two able-bodied parents in the home?

A. No.

Q. Is our substitute parent regulation a way of identifying a parent?

A. I think it helps.

Redirect Examination.

Questions by Mr. Garbus:

Q. I don't know what you mean by "identifying."

A. Pinpointing the name of the father, wouldn't you say that?

(Remarks were off the record.)

Q. Your understanding, Mrs. Wilkinson, is that the [49] substitute parent regulation is a way of defining what a parent is?

A. Yes.

Q. And that you can define somebody as a parent although he does not contribute to the support of the family?

A. That's right, and also gives status for that child.

Q. So it's your understanding then that the fact that a woman has sexual relationship with a man that is not necessarily the father of any of the children in the house, then he could properly then be described as the substitute parent of that family?

A. Yes.

Recross-Examination.

Questions by Mrs. Stapp:

Q. And do you know of father substitutes who do provide economic help in families?

A. Yes, I couldn't tell you how many.

Redirect Examination.

Questions by Mr. Garbus:

Q. And substitute fathers provide help in families——

A. It's not only the monetary help that they provide. They provide the things that children need within a home. They need that father as the head of the household, although the mother might be the whole time, but often on [50] the father's coming in and out of the home.

Q. Based on your experience, it's important for the child to have a father figure in the home?

A. Well, I think that every home needs a father as well as a mother.

Q. And that for many of these children, these men who come in and have a sexual relationship with their mothers, those men are important for the child's well being?

A. And for the man to assume responsibility as well as the pleasures and joys of having that child.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Mrs. Wilkinson, you consider a stable relationship preferable to an unstable one, relationship?

A. Yes.

Q. Where the relationships do not have stability, can the substitute parent policy help break relationships and free the mother to form a more stable relationship?

A. Yes, I think so.

Redirect Examination.

Questions by Mr. Garbus:

Q. The converse is true also, isn't that right?

A. Yes.

Q. Mrs. Wilkinson, the last two schedules indicate that [51] signed affidavits were involved and the schedules were not appropriate. Could you tell us something about those two cases?

A. I don't believe I can, because I don't know what . . .

Q. Mrs. Wilkinson, one of the factors that is not relevant with respect to whether a man is a substitute father or not is, as I understand your testimony, whether the children in the house know of his existence, is that right?

A. Now, what is that? Say it again.

Q. As I understand your testimony, if a man and woman cohabit outside of the house on any regular basis, then he can be classified as a substitute father of the children in the house irrespective of the fact that the children in the house do or do not know of his existence?

A. And if they know of that existence—I don't think there's any case that I know of that they don't know it.

Q. You know of no cases where the mother is not . . .

A. I can't recall any. I don't believe they would cohabit and then not come into the home at times.

Q. You don't know of any case . . .

A. They could go out and cohabit, but he would be coming in the home.

Q. You don't know of any cases where the mother has tried [52] to hide from the children or not let the children know of the existence of another relationship that she was having with a man?

A. If there are, I don't know of them.

Q. Well, assuming the facts are as I've given them to you, namely, that the man and woman cohabit outside of the home and the children in the home, these children not being the children of the man with whom the mother is

presently cohabiting, as I understand your testimony then, that man could be considered the substitute father?

A. They could be, because I think he would still be coming in and out of the home. The children might not know that, but there's that father figure there.

Mrs. Stapp: Could I ask Mrs. Wilkinson a question?

Recross-Examination.

Questions by Mrs. Stapp:

Q. In a legal marital relationship, does a mother normally discuss her sex relationship with her husband with children in the home?

A. Not that I know of. I've never heard of it.

Q. And does she in these substitute parent relationships either?

A. Not that I know of. I certainly think they would be very poor for a mother for her to do such a thing as that, because [53] that's private.

Q. Therefore, would the children in the home know of the extent of the sex relationship in either instance?

A. Not that I know of.

Mrs. Stapp: Normally——

Redirect Examination.

Questions by Mr. Garbus:

Q. Have you come across any cases where the mother and substitute parent cohabit outside the home and the substitute parent visits the home very infrequently, say, in the hypothesis you gave before, once every three months, and the man was deemed a substitute parent because the woman construed it as a continued relationship even though the children were not aware that there was any relationship going on?

A. Well, I don't think that we have that many. I think it would apply to the other two, A and B instead of C. This is C, isn't it?

Q. You've never come across this other kind of situation?

A. I don't know what percentage of cases it would be, but I would say it would be a very small percentage.

Q. Based on your experience . . .

A. It would be a very small percentage.

Q. But based on your experience, would the substitute [54] parent rule apply in that case?

A. That's right.

Q. It would?

A. Yes.

Mr. Garbus: I have no questions.

Mrs. Stapp: Do you, Carol?

Mrs. Miller: No.

Further Deponent Saith Not.

(At 12:00 noon, April 5, 1967, the proceedings were recessed for lunch.)

(At 1:00 P. M., April 5, 1967, the proceedings were reconvened.)

Deposition.

KATIE B. SHAW,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Garbus:

Q. What is your name and address?

A. I'm Katie B. Shaw, Bay Minette, Alabama, Baldwin County Department of Pensions & Security.

Q. What position do you hold?

A. County Director.

[55] Mr. Garbus: Can we mark as Exhibit No. 31 the

document dated April 3, 1967, furnished to me by Mrs. Stapp.

Mrs. Stapp: Yes.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 31.)

(Questions by Mr. Garbus cont'd:)

Q. Mrs. Shaw, have you ever had any meetings with your County Board at which the substitute parent policy was discussed?

A. I believe we had a meeting and discussed that policy. It's been several years ago.

Q. Approximately when was that meeting held?

A. I don't recall exactly.

Q. Do you recall the extent of the meeting?

A. No. This policy was explained in connection with other policies of the agency and current statistics for the county.

Q. When the substitute parent policy came into effect, were you at all concerned with the effect that the policy might have on the children in the State of Alabama?

A. Well, my job is to carry out the policy and not to evaluate it. Of course, as a worker, I would have some evaluation.

Q. And were you then concerned with the policy and how it [56] would affect children?

A. Yes. In reviewing the case records, I would want to know that the policy was being carried out fairly in terms of eligibility. Is that what you mean?

Q. What I was concerned about was whether you had any feeling about whether or not a policy such as this could lead to any harmful or beneficial effects?

Mrs. Stapp: I'm not sure that her personal feelings should be given in this particular case.

Mr. Garbus: Okay, her observations based on her experience.

Mrs. Stapp: Could she have had observations before the policy went into effect? In other words, it would just be a hypothetical . . .

Mr. Garbus: It would be observation based on what happened to the case as she saw it after '64. It would be her relating . . .

Mrs. Stapp: So you're asking really a question, after the policy was in effect, looking back on it then, rather than one at a time?

Mr. Garbus: Let's take it this way and then we'll go the other way.

(Questions by Mr. Garbus cont'd:)

Q. Mrs. Shaw . . .

[57] Mrs. Stapp: She may not . . . did she testify that she remembered what her thoughts were?

Mr. Garbus: Not at this point.

A. Did I remember what? Will you please repeat? I'm confused right now.

Q. Mrs. Shaw, were you the County Director of Baldwin County at the time the substitute parent policy came into effect?

A. Yes.

Q. And when you heard about the policy coming into effect, did it raise any questions in your mind about how this would affect ADC children who might have their aid terminated because of the application of the policy?

A. Oh, yes, yes.

Q. What were some of the questions that were raised in your mind?

A. Well, from the point of view of a case worker, I would be concerned with child welfare regardless of the policy, whether it was a substitute parent policy or financial policy, and you would wonder what would happen in the future. You wouldn't know until you had administered the policy.

Q. In other words, before the policy came into effect,

you foresaw the possibility of it having some damaging [58] effects?

A. Maybe positive effects, but they could be negative or positive.

Q. And did you form any conclusions about the policy?

A. No.

Q. In the last two years with respect to whether it had positive or damaging effects?

A. You mean my personal conclusions? I have no statistics to back up any conclusions that I have.

Q. Your personal conclusions.

A. In some instances, the policy brought to focus some resources we had not known about.

Q. And in other instances?

A. In other instances, we focused on the needs of the children and maybe, often more than the home and the children, the mother was ineligible for ADC; if the child were in destitute needs . . .

Q. What percentage of the cases did you offer . . .

A. A small percent. I don't remember. Several, I know that I did.

Q. Now, Russell County is approximately 50 percent white and 50 percent Negro, is that right?

Mrs. Stapp: This is Baldwin County, you know. She's in Baldwin.

[59] Mr. Garbus: Strike my question asked.

Q. Baldwin County, as I understand it, is roughly 20 percent non-white, is that right?

A. I don't recall exactly. That sounds . . .

Mr. Garbus: We will mark as Plaintiff's Exhibit 32 the schedules furnished by Mrs. Shaw to Mr. King's office.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 32.)

Q. Mrs. Shaw, the regulation states that the substitute father rule can be applied although the father is, quote,

"not living in the home regularly, he visits frequently for the purposes of cohabiting," end quote. What do you understand the terms "regularly" and "frequently" to mean in that context?

A. Our manual does not define those terms, but certainly before determining that a mother is ineligible, you would want to establish that there is a substitute father who is in and out or periodically the mother and he are together in the home, either by a statement of your client, plus references, visiting and finding him there and talking maybe with him, too.

Q. If a client says that she has continuing relationship with a man, do you then take her word for it and cut her off or do you proceed further?

[60] A. Yes, if she says absolutely that she does have, that's evidence that there is.

Q. Do you ask her how often she sees the man that she allegedly has this relationship with?

A. No.

Q. So if a woman came to you and said "I have a continuous relationship with a man," and she, in fact, sees the man once every six months, as you have just defined it, I understand the substitute parent rule would apply, is that right?

Mrs. Stapp: I object on the basis that she wouldn't know whether it was once every six months or not if she didn't ask the question.

Q. Just so we can clarify the record, then, including what Mrs. Stapp said, you do not ask the question once the woman says to you "this is a continuing relationship"?

A. There are two parents responsible for the children. This, I know. In other words, it wouldn't be deprived of parental support if there were two parents.

Q. So as I understand your testimony then, you rely on what the client tells you, characterizing the relationship, if the client characterizes it as continuous?

A. Unless more information is needed.

Q. But if a client comes in to you and says "I'm having [61] sexual relationships with a man once every six months, but I intend to see him on a continuing basis," as I understand your interpretation of the substitute father regulation, it would be applicable to her?

A. Yes, and she would have the right to an explanation of it, of the policy.

Q. What do you mean by "she would have the right to an explanation"?

A. That mother is ineligible for aid if there is a continuing relationship with a man who is in and out of the home.

Q. And how is the conversation between a case worker and the client conducted to determine if there is a substitute father?

A. Well, I would focus on the needs of the children, primarily, in determining who is their father, what is their environment, and help her to tell me the facts herself.

Q. In other words, you are concerned with the moral climate of the home, the environment in which the children are brought up, is that right?

A. Well, I feel that we are concerned about all children that are deprived.

Q. Where the substitute father and mother cohabit outside [62] of the home once every six months and the mother tells you that she intends to continue to see this man once every six months, as I understand your testimony, then the substitute father rule would be applicable?

A. If your references corroborate that. Suppose she says she's not seeing him and she gives you evidence . . .

Q. Let's assume she is seeing a man once every six months.

A. You mean just seeing him or living with him or there's a child to substantiate the relationship or what?

Q. Only that she admits to having sexual relationship with him.

A. You mean an occasional visit with him? Well, that is not the policy, I don't believe.

Q. What is the policy, as you understand it?

A. A relationship.

Q. Well, the question then is, and that is why I asked you about frequently and regularly, how often do people have to see each other before a relationship is said to exist?

A. Well, I think you would have to evaluate each case situation on its merits and find out just what the situation is in that home and what the mother says about it and does she want to verify the situation or want us to help her get more information.

[63] Q. How would you question the mother to determine more about the relationship? Would you ask her if she intended to marry the man?

A. Well, that could come up in her discussion. I've had them tell me that "I would marry him but he doesn't make enough money," or for various reasons, and we discuss the pros and cons of what it would mean to the children to have a legal father in the home.

Q. And you discuss with the mother whether or not it would be to her benefit, emotional or financial, to marry the man, is that right?

A. If she wants to discuss that and if it's apropos to that case.

Q. Well, how would you question her to find out whether a relationship is continuous and regular when she tells you that she has a sexual relationship, let's say, once every month?

Mrs. Stapp: I object, because she has testified that she does not go behind that statement when the client says continuous or regular. She has already testified that she doesn't go behind that statement to ask all those questions, and therefore, I don't think she ought to answer that question.

Mr. Garbus: Fine. I'll take Mrs. Stapp's statement [64] as your testimony. Is Mrs. Stapp's statement your testimony?

Mrs. Shaw: (Indicated affirmatively.)

Cross-Examination.

Questions by Mrs. Stapp:

Q. Is that correct, Mrs. Shaw, is that what you previously . . .

A. We don't pin them down.

Q. If the client gave that primary information, that first information, your testimony then has been that you do not go into great detail on the nature of what you mean by the word "continuous"?

Redirect Examination.

Questions by Mr. Garbus:

Q. What happens if a client tells you that, in response to a question you've placed to her that you heard there was a man in the house, that she has relationships with the man once a month? What are the questions that you then put to her to determine if this is a continuous relationship if she doesn't use that term?

A. If she says she is not seeing the man . . .

Q. If she says "I'm seeing him once a month."

A. Well, we explain to her that if she wants to break this relationship with the man, we can see qualified people who can help establish this is broken, if it's her [65] intent to break this relationship, well, certainly she would be considered for aid.

Q. What are the factors that you question her about concerning the nature of the relationship? You indicated before you sometimes discussed whether or not she wanted to marry the man. Would you also ask her the amount of affection that the man had for her children?

A. Well, I think the worker observes the relationship when she goes into the home, especially if he's there, she can see the relationship existing between him and the children and the things that he does for the children.

Q. So that one of the factors she considers, whether she asks or observes it, is the relationship between the man and the children?

A. What she observes and what he tells her.

Mrs. Stapp: I object to your asking that as a matter of case work practice with respect to the family situation or as a matter of determining eligibility under this policy. Mr. Garbus, it would seem to me that the question you asked might relate to something that the case worker would know and observe but which would not be a strict factor in the application of this policy. So . . .

Mr. Garbus: I don't know what you mean by "strict factor." I was trying to get from Mrs. Shaw what were the [66] elements that go into the case worker's decision to decide whether the relationship was continuous, regular and frequent where that language was not used in the first instance by the recipient.

Mrs. Stapp: So then you are tying this down to this policy?

Mr. Garbus: Yes.

Mrs. Stapp: I withdraw my objection.

A. We would certainly need to see her references to determine if there is a continuing relationship or if the relationship is broken.

Q. What would you ask her references about the relationship?

A. Well, I would ask the references if this man is living with, has the privileges of a husband and a father to the children, if they have information that would establish whether or not he is in and out of the home, do they see him there. A neighbor may see him there or see his car parked there and know that he comes there regu-

larly, maybe over the weekends or when he gets in from wherever he's been all week.

Q. What happens if a client tells you that the relationship has been broken but that no one else in the neighborhood knows of their relationship and she can't prove that it [67] has been broken?

A. Well, we would have the burden of denying her if she can't help establish it.

Q. In other words, if the mother can't prove that the relationship . . .

A. We couldn't establish it. It would be impossible to determine her eligibility if she couldn't help us in that case.

Q. And she would be declared ineligible?

A. Yes, uh-huh.

Mr. Garbus: Answer: "Yes," I think "Uh-huh."

Mrs. Stapp: Mr. Garbus, can I ask a clarifying question there?

Recross-Examination.

Questions by Mrs. Stapp:

Q. This would be in the event the client chose not to attempt to disprove this relationship?

A. (Indicated affirmatively.)

Q. And your answer to that is "yes"?

A. She would be ineligible if she didn't help establish it if she had a full understanding of the policy.

Q. And she did not attempt to show that this was not a true situation?

A. Right.

[68] Redirect Examination.

Questions by Mr. Garbus:

Q. Roughly, what percentage of the cases have the situation occurring where the mother refuses to give you references or refuses to establish that the relationship has been broken?

A. I can think of only one, off-hand, where she has told me that she had no references. She wrote a letter and said that no one would tell us that she had a broken relationship, that she saw him every day in the week, and that's what she wrote.

Q. And that she couldn't prove that there was a broken relationship?

A. (Indicated affirmatively.)

Q. Do you have any idea in what percentage of the cases where the substitute parent rule was applied that an appeal was taken from that determination in your county?

A. We have had no appeals on that policy.

Q. You've had no appeals on the policy since . . .

A. Since it was begun.

Q. Have you had any applications for recertification on the policy?

A. Yes. I don't know how many.

Q. Do you have any idea what percentage that would be?

[69] A. No.

Q. In that situation where the man and the woman cohabit outside of the house, as I understand the policy, and your testimony was that cohabitation is proven, then quite apart from whether the relationship is continuous or permanent or frequent, then the substitute parent policy can be applied, is that right?

A. You mean if she's pregnant or has a child?

Q. No. In a situation where, quote, "he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere," end quote, does the regulation, as you interpret it, allow for termination of aid quite apart from the continuous or regularity of the relationship?

A. No, it would have to be continuous and regular.

Q. In other words, as you understand the regulation,

continuous and regular are also part of that subdivision is that right?

A. Yes.

Q. In Baldwin County, as I understand it, 47 cases were closed during July 1964 to January 31, 1967, because of the substitute father rule. Do you know in how many cases evidence showing that the relationship had been discontinued was offered and the cases subsequently [70] reopened?

A. No, I don't have that figure.

Q. Could you give me that figure?

Mrs. Jordan: We do not have that information. You did not request that in the information you requested.

Mr. Garbus: I have no further questions of this witness.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Do you know of instances where father substitutes do provide economic help in families?

A. Yes.

Q. Do you know of situations where there is a legal marriage in which a father does not provide economic help to the family?

A. Yes.

Q. Do you have case work supervisors in your county?

A. I have a vacancy. I have had a vacancy. I've never had one.

Q. Are you doing a lot of the case work supervision?

A. Yes.

Q. At the present time?

A. Yes.

Q. Were you aware of the amount of the ADC grant at the [71] time this policy went into effect?

A. Roughly.

Q. And what was that?

A. 38 percent of budgeting need.

Q. This was the amount, average grant?

A. No. You mean the average money paid?

Q. Average.

A. I don't remember the figure, but it was small.

Q. Are you aware of the amount of the ADC grant now, over two years since the policy has been in effect?

A. It's increased some. I believe in Baldwin County the average ADC grant now is something over $12.00 per child.

Q. Is this an increase?

A. And it's an increase. I hesitate to say a figure without knowing.

Q. Do you know the percentage?

A. I don't know the percentage, but it's several dollars, I would say, per child.

Q. More?

A. More now. The exact dollars and cents . . . I do know that the average payment has increased.

Mrs. Stapp: All right. I believe that's all.

Further Deponent Saith Not.

[72] **Deposition.**

NAN C. MURPHY,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Garbus:

Q. What is your name and address?

A. Mrs. Nan C. Murphy, LaFayette, Alabama, Box 265.

Q. Were you previously sworn under oath to testify today?

A. Yes.

Q. What position do you hold?

A. Director of Pensions & Security in Chambers County.

Q. How long have you held that position?

A. About 21 years.

Q. Is it correct to state that Chambers County is roughly 37 percent negro?

A. About 36 percent, 36 and something.

Q. And the remainder white? Now, the statistics that have been furnished to me and have been marked Plaintiff's Exhibit 31 indicate that 75 cases were closed in Chambers County because of the substitute parent policy?

A. That's true.

Q. And this, I understand, was based on information previously submitted by you to Mrs. Stapp?

A. Yes.

[73] Q. Do you know in how many of those cases any appeals were taken?

A. No appeals were taken.

Q. Do you know in how many cases the person whose application was closed subsequently reapplied?

A. Yes. Well, I don't know how many subsequently reapplied but we did reopen 13 cases and they are currently receiving.

Q. You said "reopen" and I said "reapplied". What is the distinction in your mind?

A. Well, they could have reapplied and not been approved. These were 13 who were approved and are currently receiving.

Q. In those 13 cases, was evidence offered to show that the relationship had been discontinued?

A. Yes.

Q. What kind of evidence was offered?

A. By their own statement and through investigation.

Q. What kind of investigation?

A. Well, we would sometimes talk with the alleged father and then at other times we would talk to relatives and then at other times we would talk with just collaterals whom they suggested.

Q. Tell me something about the conversations that you had [74] with the collaterals.

Mrs. Stapp: I object inasmuch as the County Directors don't ask the questions you are asking her to . . .

Q. Your case workers have had these conversations?

A. Yes.

Q. And have they told you their conversations?

A. Well, they have recorded them.

Q. And you've seen these records occasionally?

A. Yes.

Q. Well, then, what were some of the conversations that were had between your case workers and the collaterals?

A. "Do you know of any man who is visiting the home regularly for the purpose of cohabiting with our client?"

Q. And what if the man says, or the woman who is the collateral, says "Be more specific; what do you mean by 'cohabiting'?" What do you . . . or do they understand?

A. Sexual relations, uh-huh.

Q. And what has been your experience based on the records you have read with respect to the kinds of answers that were given at these . . . in these kinds of cases?

A. Pardon?

(Remarks were off the record.)

A. No. They would say, well, that "so and so visits the home regularly and I know that she is pregnant and that [75] she has said that the forthcoming child is so and so's," and "Does he still visit the home?" and questions like that.

Q. Now, sub-division 2 of the substitute father regulation provides that the rule is applicable although the father is not living in the home regularly, he visits fre-

quently for the purposes of cohabiting. How often is "regularly" and how often is "frequently"?

A. Well, I would define regularly as once a week and I would define frequently as less than that.

Q. So frequently might be then once a month?

A. It could be.

Q. Sub-division 3 of that regulation provides that the substitute father regulation is applicable where he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere.

A. Well, to give you an example, a woman goes to the prison camp to visit her . . . the alleged father, and then she meets him other places out of the home, because sometimes they say that they don't wish to engage in this practice in front of their children.

Q. Sometimes the mothers try to make sure that their children are not aware of these other relationships, is that right?

[76] A. They do.

Q. And they go a good deal out of their way perhaps to make sure that the children are not aware of it?

A. Probably.

Q. Now, when we say that the rule is applicable where he does not frequent the home but cohabits with the child's mother elsewhere, do you understand "frequently" and "regularly" to be read into that provision?

A. I would think so.

Q. So that the same time standards that exist for sub-division 2 exist for sub-division 3, as you understand the regulation?

A. I think so.

Q. Do you inquire with respect to whether or not a mother intends to continue seeing a man whether the relationship is a continuous and a permanent one?

A. We do.

Q. And if the mother tells you that she only sees the man once every six months but intends to continue to

see him, do you understand that the substitute father regulation is applicable?

A. You know, I believe that I would have to have some very specific information and I might have to consult with my field representative about that.

[77] Q. Is your field representative the person who is under you?

A. She's my superior.

Q. And how many field representatives are there in the State of Alabama? Is there one for about every four or five counties?

A. No. I think they have more than that. I believe now they have probably 8 or 9 counties.

Q. Have you ever seen any correspondence or statements coming from the office of Commissioner King defining the terms "frequently" and "regularly"?

A. No.

Mr. Garbus: We'll mark as Exhibit 33 the letter of Mrs. Murphy to Mr. King, dated March 15, 1967.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 33.)

Q. Mrs. Murphy, the schedules that you supplied indicate that the three cases closed in your county during July 1966 were closed because of a pregnancy or a birth of an illegitimate child?

A. Yes.

Q. Based on your experience, would you say that the majority of the cases that are closed under the substitute parent policy are closed because of that reason? In the [78] month of July 1966, 100 percent of your cases were closed because of that?

A. Yes.

Q. But I would assume that the figure might be somewhat less than that if we looked at the two-year total of July '64 to January 1967?

A. Yes.

(Remarks were off the record.)

Q. Back on the record. Just give me whatever estimate you can.

A. Well, now, let's see, we closed 75 cases from July '64 through January 31, '67. Now, that would be about 2½ years, wouldn't it? All right, about 2½ by 75 and then by 12.

Q. So that's roughly three cases a month?

A. Uh-huh.

Q. The question I was asking you was whether the cases that were closed were closed primarily because of the existence of an illegitimate child or because the mother was pregnant?

A. That's true.

Q. So that the primary reason, at least in your county, for the closure was the pregnancy or the birth, rather than information that someone was living in the home or that [79] someone was cohabiting elsewhere?

A. That's right.

Q. Mrs. Murphy, in case number 11817, Plaintiff's Exhibit No. 32, it indicates that although the alleged father did not frequent the home, he did cohabit with the client elsewhere. Do you know anything at all about the frequency of that cohabitation?

A. Well, this girl went to his home to look after his children and she went frequently.

Q. When you say "she went to look after his children," you mean he also had sex relationships with her when she did this?

A. When she was in his home.

Mrs. Stapp: May I ask a question?

Cross-Examination.

Questions by Mrs. Stapp:

Q. Was this case, was the grantee-relative the man with his children or the woman with hers? Was the man receiving aid?

A. Let me see which that was. These children were living with an aunt, I believe, and the man was in the home . . . she was living with the aunt and then she went to the man's home. Now, she was the . . .

Q. She was the grantee-relative?

[80] A. She was the grantee-relative, you see. That was the man's home. His wife worked at night and she went over there, you see, to look after the children.

Q. This was her job?

A. That was her job.

Q. Now, let me ask you something—was the man receiving ADC?

A. He wasn't, no, you see . . .

Q. It was not his children?

A. He was not a client, you see. She was the client, the girl who went over to . . .

Q. The grantee-relative?

A. She was the grantee-relative.

Redirect Examination.

Questions by Mr. Garbus:

Q. When the client states that the relationship she is having is continuous, do you accept that description, or are your case workers to inquire further and find out if, in fact, the relationship is continuous?

A. If they say they're having a continuous relationship, we take that, because the client is the prime source of information.

Q. Do you tell the client before she gives you that information what you mean by "continuous relationship"?

[81] A. I won't say that we . . . you know, we explain this policy to everyone who comes to us for ADC and so due to that circumstance, I would say yes.

Q. The policy does not use the term "continuous." When you speak to the client, do you ask whether the relationship is continuous or whether it's regular or frequent or in your terminology, do all those terms mean the same thing?

A. Well, we say . . .

Mrs. Stapp: I object. The policy does use the word, doesn't it, "continuous."

(Remarks were off the record.)

Mrs. Stapp: "Regularly" and "frequently," that's right. Excuse me. I beg your pardon.

A. We use the word "regularly."

Q. You don't use the term "continuous"?

A. We don't use continuous.

Q. So you ask the client, as I understand it then whether or not they are having sexual relationships continuously, frequently or regularly, and then you describe what you mean by those terms before you get their answer, is that right?

A. We explain the policy to them, that if there is a man living in the home with the privileges of a husband, and [82] we find if she understands what that means, or if there is a man coming in and out of the home, or whether she meets him outside of the home and is regularly cohabiting with him. We explain that to them.

Q. Roughly, what is the percentage in your county of negro and white on ADC?

A. I have it exactly. I have . . . at the present time, we have 143 ADC—12 are white and 129 are negro, and that works out 8.5 white and 91.5 negro.

Q. I missed that last . . .

A. 8.5 and 91.5—percentage.

Mr. Garbus: I have no other questions of this witness.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Earlier in your testimony, you made a statement I would like to clarify. I believe it . . . was it your intent to say you did explain this policy?

A. Yes.

Q. To your workers as well as the recipients?

A. Yes.

Redirect Examination.

Questions by Mr. Garbus:

Q. When you explained the policy to your workers, did you [83] help them to define the terms "frequently" and "regularly"?

A. No, I don't remember that I did, but I believe that they are intelligent enough to know, you know, what "frequently" and "regularly" would be.

Q. Is there any variance between your concept of the term "frequently" and "regularly" and some of the case workers' concept of those words?

A. Well, now, I couldn't answer for my case workers, but as I stated in the beginning, "regularly" to me means, we'll clarify it this way, once a week. "Frequently" would have another connotation. I don't . . . "frequently" to me would be different to "regularly."

Q. I think before you indicated "frequently" might mean once a month?

A. Yes.

Mr. Garbus: I have no other questions.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Under our agency regulations, do you understand that the agency cannot make payments to families where there are two able-bodied parents in the home?

A. (Indicated affirmatively.)

Q. Do you understand that the substitute parent policy is a [84] way to define or identify the other parent?

Mr. Garbus: I have difficulty with that question.

A. I beg your pardon. Say that again.

Q. You want me to ask it again?

A. Uh-huh.

Q. Do you understand that the substitute parent policy gives you another way to define or identify one of the able-bodied parents?

A. Yes. A substitute parent is a parent that takes the place of another parent, but who is not legal.

Q. Other than a legal parent?

A. That's what I was fixing to say, but who is not a legal parent.

Mr. Garbus: May I ask another one?

Redirect Examination.

Questions by Mr. Garbus:

Q. When the substitute parent policy came into effect, were you at all concerned with the effect it might have on the children in the homes where they're receiving ADC benefits?

A. Yes.

Q. Would you describe your concern?

A. It could be very bad for children in the home because it could be that the practice of the mother was with-[85] holding from the children things that they needed.

Q. Could you be more specific?

A. Well, let's say that there is a mother who has, say, who is pregnant and she's unmarried; she has, say, three legal children. All right, if she comes in and we ask her if she has a relationship with this man which is not unbroken, that is, if he's living in the home or frequenting it, she being otherwise, did she know that if she kept

this relationship with him that it would mean that we would have to withdraw funds that we were giving her through the category of ADC.

Mrs. Stapp: And you were saying this would be a concern to you?

A. Yes, and that would be a concern to us because we know that she needs that; the children need this grant that we're giving them.

Q. (Mr. Garbus) How do you feel about the children's need to have a man in the home?

A. I think that to have a legal father is very fine for the children, not only financially but emotionally as well.

Q. What happens in those situations, in your experience, where the man is not a legal father but feels like a father towards the children and gives them a certain amount of love and affection? Do you think that's a [86] healthy relationship for the child?

A. I think it's a healthy relationship for the child if it's genuine.

Mr. Garbus: I have no questions.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Do you know of situations where in a legal marriage the husband does not, in fact, provide economic help for the child?

A. I do.

Q. Do you know of situations in a substitute parent arrangement where the substitute father does provide some economic help or economic help for the family?

A. I do.

Mrs. Stapp: All right, that's all.

Mr. Garbus: Let me ask this——

Redirect Examination.

Questions by Mr. Garbus:

Q. And of course, you do have other situations where your answer would be converse, is that right?

A. Yes.

Mrs. Stapp: I believe that's all I have.

(Remarks were off the record.)

Mr. Garbus: Let me ask—let me do it this way.

[87] Q. (Mr. Garbus) Mrs. Murphy, prior to your coming here today, did you make an examination of a mental health report and pick out some figures concerning illegitimacy rates with respect to negro and white population?

A. I did.

Mrs. Stapp: What is the name of that report?

A. The name of the report is *The Base Line Data for Planning County Profiles,* prepared by the Division of Mental Health Planning and Mental Hygiene, Alabama Department of Public Health.

Q. (Mr. Garbus) Do you know when that was prepared?

Mrs. Stapp: What was the date on that?

A. 1965, August, and here it is, the rank order of white illegitimacy rates from 1959 to 1963.

Mrs. Stapp: By county?

A. Yes, it gives it by county, see. Per 10,000, the white population is 10, and then here, 458 per 10,000—for white it's 10 for 10,000 and for colored, it's 458.

Mr. Garbus: Can we mark as Plaintiff's Exhibit 34 the report referred to by Mrs. Murphy?

Mrs. Stapp: If we could get one furnished by the Division of Mental Hygiene—I don't know—do you think you could?

A. Oh, I'm sure you could.

[88] Q. (Mr. Garbus) Mrs. Murphy, I believe also that the statistics that you previously came up with indicated that the white population of Chambers County is roughly 63.34 percent and the non-white population is 36.66 percent?

A. Now, that's according . . . most of those figures that I have there, except about my caseload, I did take from this report.

Mrs. Stapp: Thank you so much. We would like to get a copy of that. If you'll show that to Mrs. Jordan, she'll see about it.

Further Deponent Saith Not.

Deposition.

MYRTLE S. PREER,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Garbus:

Q. What is your name and address?

A. Myrtle S. Preer, Phenix City, Alabama.

Q. What is your title?

A. I'm Director of Russell County Department of Pensions & Security.

[89] Q. How long have you had that position?

A. Since August . . . You mean in Russell County?

Q. Yes.

A. Since August '62.

Q. Now, the information previously furnished indicated that 27 cases were closed from July 1, 1964 to January 31, 1967, because of the substitute parent policy in Russell County. Were any appeals taken from any of those closures?

A. No.

Q. Did any of the people who had their cases closed subsequently reapply?

A. Yes.

Q. Do you know how many?

A. No, I don't.

Q. Would it be more or less than three?

A. Frankly, I don't know. I could surely find out.

Mr. Garbus: Let us leave a space in the deposition and if Mrs. Preer can . . .

Mrs. Stapp: Do you want that information?

Mr. Garbus: Yes.

Mrs. Stapp: You can call it in to us.

A. There have been two reapplications and two recertifications and both were members of the Negro race.

Mrs. Stapp: Mr. Garbus, are there going to be any [90] other . . .

(Remarks were off the record.)

(Questions by Mr. Garbus, cont'd:)

Q. Have you had any meetings with your County Board where the substitute parent policy was discussed?

A. No, not specifically for the discussion of that policy. It's been discussed informally from time to time.

Q. What kind of discussions?

A. Explaining the policy, interpreting it.

Q. Now, the statute provides that substitute . . .

Mrs. Stapp: Regulation.

Q. . . . regulation provides that the regulation is applicable although the father is not living in the home regularly, he visits frequently for the purpose of cohabiting. Now, how often does "regularly" mean and how often does "frequently" mean?

A. Well, now, we ask the client that and it's how they consider it and really not how we do.

Q. So that if a client considers a relationship regular when the man visits her once a month but is going to

continue to see her once a month, then that, in your terms, would be regular, and the substitute father rule would be applicable?

A. That's correct.

[91] Q. Is there a difference in the term "regularly" and "frequently" or again is that up to the client to see if she feels there's a difference?

A. State that again, please.

Q. The regulation uses the term "frequently" and "regularly."

A. Yes.

Q. Now, do those terms have any difference in meaning to you, and if they do, is that relevant or does it depend on whether the term means different things to the client?

A. Well, I would say that it's about the same sort of thing. In the meaning to the client, I think they would know more often the use of the word "regularly" than they would "frequently." I expect that they would . . . I expect that the word "regularly" would more often be used with a client than the word "frequently," to ask them things.

Q. But "frequently" and "regularly" mean in your mind about the same thing with respect to the number of visits that are involved?

A. (Indicated affirmatively.)

Q. Answer "Yes."

A. Yes.

Q. Regulation 3 provides that the rule is applicable [92] although he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Now, that particular sub-division does not have any time-characterization, isn't that right?

(Remarks were off the record.)

Mrs. Stapp: Now, what are we getting her to answer yes to, Mr. Garbus?

Mr. Garbus: I thought the question was that there's no time element indicated in sub-division 3.

(Remarks were off the record.)

(Questions by Mr. Garbus con'd:)

Q. Is it your understanding that the terms "frequently" and "regularly" that are used in sub-division 2 of the regulation also modify sub-division 3 of the regulation with respect to how often the substitute father cohabits with the child's natural or adoptive mother elsewhere?

A. Yes.

Mrs. Stapp: "Modify"—you mean in this instance change in the same way?

Q. Do you have any idea roughly concerning the number of substitute father closures because of the existence of a baby six months or under or because the mother is pregnant?

(Remarks were off the record.)

[93] A. No, no, I wouldn't think so. Most of them were not on the substitute parent policy. Is that what you asked?

Mrs. Stapp: No, I think you're saying that most of the closures of ADC cases were not substitute parent policy. You were asking those that were, were they closed because of pregnancy or appearance of a baby.

A. Now, that, I don't know. I know what was closed under the—you just said 27 were closed—I only know under the . . . that they were closed under the general substitute parent policy.

Mrs. Stapp: Mr. Garbus, you have figures on July 1964 in that breakdown from Russell County—excuse me, '66, July '66 figures. Do they give you a breakdown on closures of that county? That was all she was asked to prepare.

Mr. Garbus: Just one.

Mrs. Stapp: Just one case? Was that a prima facie case?

Mr. Garbus: No, it was in and out of the home.

Mrs. Stapp: Mrs. Preer didn't come prepared on those questions for the others. Is that your testimony, for the rest of the two years?

A. No, I didn't. Now, may I explain this. I was there, I know about that July, I got those up. I think it was 11 cases closed and one was under the substitute parent [94] policy.

Mrs. Stapp: We didn't ask them to study the cases for the two years. We just got that one statistic on the race.

Mr. Garbus: I have no other questions of this witness.

(Remarks were off the record.)

Q. (Mr. Garbus) have you had any discussions with any of your case workers with respect to what the terms "frequently" and "regularly" meant?

A. Yes.

Q. What kind of discussions did you have?

A. In case work conferences.

Q. What did you tell them about these terms?

A. Well, they would present the problem to me as to what to do at that point, and we would, of course, try to establish if it was a relationship there. Do you want to know sort of some of the things that are said, is that . . .

Q. (Indicated affirmatively.)

A. Well, for instance, there would be . . . they would have a question in their mind about whether or not this policy was applicable in such and such a case. Well, then, maybe at that point, I would not be able to [95] decide and then ask for maybe another interview, another visit. It isn't quite that cut and dried, you see, because maybe we'll say, maybe we would talk in terms of saying to the mother, well, "You know, you might like another kind of life," or something like that, hopefully, a case worker approach to it, and then if it was . . . she said she just

. . . or told us or showed us that she just meant to keep the relationship up and wanted to keep it up, that she didn't want to try something else, we'll close it. Did I answer your question?

Mr. Garbus: You did. I have no other questions.

Cross-Examination.

Questions by Mrs. Stapp:

Q. Do you know of any situations in a legal marriage where a father does not support his children? Are you familiar with any situations of that sort in a legal marriage where a father does not actually contribute economically to his family?

A. Yes.

Q. And do you know of situations in a substitute parent family where the substitute parent does contribute economically to the family?

A. Yes.

Q. All right. Under our agency regulations, can the [96] Department make payments to families where there are two able-bodied parents in the home?

A. No.

Q. Do you understand that the substitute parent policy is a way to identify or define what a parent is with respect to being an able-bodied parent?

A. Yes, I do.

Mrs. Stapp: All right. That's all I have.

Mr. Garbus: You want . . .

(Remarks were off the record.)

(Questions by Mrs. Stapp cont'd:)

Q. Do you supervise your workers in your county? Do you have a case work supervisor employed?

A. We do not.

Q. And you do the supervision of the county?

A. (Indicated affirmatively.)

Mrs. Stapp: That's all.

Mr. Garbus: We'll mark as Plaintiff's Exhibit No. 35 the letter from Mrs. Preer to Mr. King.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 35.)

Further Deponent Saith Not.

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[97] **Deposition.**

BLANCHE SAUNDERS,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Garbus:

Q. What is your name and address?

A. Blanche Saunders, Grove Hill.

Q. What is your present title?

A. I'm Director of Clarke County Department of Pensions & Security.

Q. How long have you been the Director?

A. Since January 1962.

Q. The information previously given to us indicated that 42 cases were closed because of the substitute parent policy from January '64 to January 31, '67. Do you know if appeals were taken in any of those cases?

A. No, none.

Q. You know that none were taken?

A. Yes.

Q. Do you know if any of the people whose cases were closed subsequently reapplied on the grounds that the relationship had been broken?

A. Yes.

Q. Do you know roughly how many?

[98] A. I really don't. We have some that are back on the payroll, some that we have processed, cleared now.

Q. Would you say more or less than three cases?

A. More than that.

Q. Would it be approximately 10?

A. Well, I didn't look at them, other than just what I remember, seeing cases and knowing the same people are coming back. I would say, my guess would be it would be more than 10, but I wouldn't be sure.

Q. The regulation provides that the rule is applicable where the substitute father though not living in the home regularly, he visits frequently for the purpose of cohabiting. How often does "regularly" mean and how often does "frequently" mean in the application of this rule?

A. Well, I never have gone into the regularity of that. What we do is talk with them in terms of whether or not it's a marital relationship. If they say it's a marital relationship, I've never gone into the frequency of . . .

Q. Do you mean marital relationship or sexual relationship?

A. Well, what we're thinking in our explanation to them is whether they're maintaining a sexual relationship with the person. It takes on the aspects of a marital relationship. So many of our people refer to it in that [99] connotation.

Q. So if they're having a sexual relationship and the woman admits to you that she's having a sexual relationship, you don't inquire to find out how regular or frequent the relationship is?

A. No.

Q. So if a woman is telling you she's having a sexual relationship with a man once every three months but that it's continuous, a continuous relationship and she intends to continue to do it in the future the best thing for you to do to justify the application . . .

Mrs. Stapp: I object, inasmuch as we don't know . . . you're assuming there that a woman would voluntarily say this to her?

Mr. Garbus: Either voluntarily say it or have it come out in the course of a conversation.

Mrs. Stapp: I see. All right.

A. Now, I see, what you're saying to me is if she said that she was having a relationship once every three months, well, I think you would have to take into consideration other parts of the relationship besides just the sexual relationship.

Q. What are some of these other factors?

A. Well, of course, you have to . . . if he is living there [100] in the home with her, taking on the role of a father and all of that, you'd have to understand the total situation.

Q. Let's assume he has a sexual relationship once every three months but is not living in the home and he cohabits or has a sexual relationship with the mother outside of the home, but that he has been doing it once every three months for the past five years and continues to do it, does that justify the application of the substitute rule, as you understand it?

A. I really wouldn't know. I never have had . . .

Mrs. Stapp: Have you ever had a case of that sort?

A. I never have had anything that even remotely was related to that.

Q. Well, you were talking about other factors, as I understand your testimony. You were saying that you can't specifically say that once a week or once a month describes the relationship, but rather, there were other factors that you had to get involved in to decide whether or not . . .

A. You have to understand the total situation to know how to apply any policy.

Q. Now, sub-division 3 of the policy provides that the substitute father rule is applicable where the man does not [101] frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Now, how often does that kind of cohabitation . . .

A. Now, that is the same thing that if the mother ad-

mits that she's having a relationship with a man, and I've never told a worker of mine to determine how often.

Q. The admission by the mother and her characterization of the relationship is sufficient?

A. Acceptable, as far as I'm concerned . . . if she accepts it as that relationship, I accept it.

Q. So if the mother is wrong in describing the relationship or if the mother has been misled by the man with respect to the continuity or permanency of the relationship, then in that case, it is still her characterization of the relationship to determine her eligibility?

(Remarks were off the record.)

A. Yes.

Mrs. Stapp: I would like to ask a question here, if I may.

Cross-Examination.

Questions by Mrs. Stapp:

Q. If the mother is wrong about telling you about income that she is expecting to receive and yet she tells you she expects to receive it, do you believe that?

[102] A. Yes.

Q. And you accept her statement about the income from any source as being the income she receives, and you would expect that she would continue to receive it unless she later told you otherwise?

A. Yes.

Redirect Examination.

Questions by Mr. Garbus:

Q. Case number 8724 in your county as described in the schedule sheet indicates that the client denied the substitute father relationship, is that right?

A. Yes.

Q. In this case, as I understand it, the client's mother refuted the version given you by the client with respect to the relationship?

A. That's right.

Q. Had you sought out the client's mother?

A. Yes.

Q. Had the client discussed with you beforehand your seeking out the client's mother?

A. Yes. When we asked who could tell us, I mean, verify that information, she said her mother. Her mother lived in the home with her.

Q. You also indicate that one reference indicated the [103] mother was relieved of the duties in a civic club because of her behavior. What kind of behavior was that?

A. This was around, the relationship with this man.

Q. In other words, she lost her job or the duties because of a relationship with a particular man who was later adjudged to be the substitute father?

A. (Indicated affirmatively.)

Q. You then stated in the schedule sheet, quote, "According to references, the main purposes of the club were to improve standards of groups to become more acceptable in the community", end quote. What kind of club was that?

A. It was a social club. I've forgotten what the name of it was, but that was the purpose that she said they had organized the club.

Q. Do you know roughly what percentage . . . withdrawn. Do you feel that more or less than half of the cases closed in your county because of the substitute father regulation were closed because of pregnancy or because an illegitimate child had been born?

A. I wouldn't remember.

Q. You have no idea then which particular section of the substitute father rule is the one most often applied?

A. Not without going back and studying.

Q. Just based on your experience over the last four or five [104] years?

A. Well, I could say in the last two years, we have had very few where the children have been born.

Q. Are they primarily closed where you find that the woman is pregnant?

A. No, when they're maintaining a relationship. In the figures, we've closed 179 cases since July of '64 . . . 42 of those were under the substitute parent rule . . . 32 were done in '64; 7 in '65 and 3 in '66. So we've had very few closures, relatively speaking, in recent years.

Mrs. Stapp: You will recall, Mr. Garbus, you only requested this breakdown for the month of July '66.

Mr. Garbus: I have no other questions.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Do you know of situations where there is a legal marriage where the father does not contribute economically to the support of the children in your county?

A. Where there is a legal marriage?

Q. Where there is a legal marriage and where the father does not contribute support, are you familiar with any situation in your county?

A. I don't think so.

[105] Q. Are you familiar with situations in your county where there's a substitute parent and where the substitute parent does contribute economically to the family?

A. (Indicated affirmatively.)

Q. Under our agency regulations, can our Department make payments to families where there are two able-bodied parents in the home?

A. Where there are two able-bodied parents? No.

Q. Do you understand this substitute parent policy to define or identify a parent as an able-bodied parent?

A. Yes.

Q. Do you have a case work supervisor in your county?

A. No.

Q. You do the case work supervision yourself?

A. That's right.

Mrs. Stapp: All right.

Redirect Examination.

Questions by Mr. Garbus:

Q. In the situation where the client refuses to allow you to contact her references but merely states to you that the relationship was broken, as I understand the rule, the case should be closed because of the substitute parent regulation, is that your understanding?

A. Yes, but I've never had the experience of one refusing [106] to give references.

Mr. Garbus: That's all. We'll mark as Exhibit 36 the letter from Mrs. Saunders to Mr. King with the enclosure.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 36.)

Further Deponent Saith Not.

Deposition.

ADA KATE POSEY,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Garbus:

Q. What is your name and address?

A. Ada Kate Posey, Montgomery County Department of Pensions & Security, 142 Washington Avenue.

Q. What is your title?

A. Director of the County Department.

Q. Were any appeals taken from the cases that were closed because of the substitute parent policy between July 1, 1964 and January 31, 1967?

A. No, sir.

[107] Q. Were any of the cases that were closed subsequently reopened?

A. You mean during that entire period?

Q. Yes.

A. Yes, sir, I believe so, but now I do not have that information right off.

Q. Do you have any idea approximately what percentage of cases that were closed were subsequently reopened?

A. During the years, there were 32 closed during the entire time up to the present, but I know some have been put back on, but I don't know, you know . . .

Mrs. Stapp: Mr. Garbus, you recall you did not specifically ask that information be prepared.

A. We pulled out one month, you know, that we were to check on.

Mrs. Stapp: I believe that was July 1966, Mr. Garbus.

Q. (Mr. Garbus) The statistics that you furnished with respect to closures indicated that 7 cases involving white families were closed because of the substitute parent policy?

A. And 27 negro—32 in all—25.

Q. Do you recall when the white cases were closed?

A. Now, we were not asked to get when. The first time you called about that, you asked us to check . . .

[108] (Remarks were off the record.)

A. Over this two-year period.

Q. Mrs. Posey, as you understand the substitute parent policy, do you believe that when a client tells you the relationship has been terminated but refuses to allow you to go to any references, and in that case the proper practice is to close the case?

A. I would want to know why she didn't want you to go to references, what her reason was.

Q. Let's take the situation where the client does not want you to go to any references because the references or the people in her area don't know of the relationship and she wants to keep it that way.

A. But now she has a responsibility if she says the relationship is broken to refer us to someone who can prove it.

Q. And if she doesn't, then the case is closed?

A. That's right.

Q. Once you learn that the woman is pregnant or has a baby six months of age or under, do you then ask her whether the relationship is terminated?

A. Yes, sir. In the particular case, I think, that you're reading, she even said that his mother was going to or had claimed this child that she was going to have; you [109] know, the relationship wasn't broken; and that his mother wanted the baby, the alleged father's mother.

Q. Was she still continuing to see the father?

A. Yes, and his family accepted her, too, you know.

Q. Both families, then, it's your testimony?

A. She was living with her parents and they knew she was pregnant and knew she was going with him, and then his mother had asked if she could have the baby when it came because she's quite fond of the girl.

Q. And you understood this to mean that the father and mother . . .

A. The relationship was . . .

Q. They were going to continue their relationship?

A. Yes, and he said he was going to pay the midwife.

Q. Did you ask her whether the relationship was going to continue?

A. Now, I did not. The case worker did.

Q. And the client indicated that it was?

A. Yes, and he was regularly coming while she was pregnant.

Q. The regulation provides that the substitute father rule should be applied although the substitute father is not living in the home regularly, he visits frequently. What do you understand the terms "regularly" and "frequently" to mean?

[110] A. Well, I think it would depend on the situation. Some come more often than others, depending on where

they live, the availability—I would say at least weekly, or we have had cases where, well, I'll give you one specific instance where the person was working in Florida, Winterhaven, picking fruit, and he didn't get back but about once a month, but he sent money and she knew the weekends that he was coming. So that wasn't a broken relationship.

Q. So you can, depending on the circumstances, have a continuing relationship although . . .

A. Although it might not be weekly or it might not be every other week, even, under those circumstances, but I think that it depends on the individual situation.

Q. But the money-sending was not the factor; the regulation is aimed only at . . .

A. But the relationship was not broken because he was assuming the responsibility, he was sending the money to pay the rent. We verified through the employment office that they had sent him there on this fruit-picking job and he considered this home when he was in Montgomery and he gave that address to the employment agency, you know, for communications and all that.

Q. So what you're saying, as I understand it is that . . .

[111] A. To me it depends on the situation, your facts involved, because under a circumstance like that, he could not come every week from Winterhaven, Florida.

Q. Now, sub-division 3 of the regulation provides that the regulation is applicable where the father does not frequent the home, but cohabits with the child's natural or adoptive mother elsewhere, and that provision does not specifically use the terms "frequently" or "regularly." Is it your understanding that those terms do modify that provision?

A. Yes, I think so—inside or outside of the home.

Q. Do "frequently" and "regularly" mean the same thing to you as used in the regulation?

A. I don't believe we have many instances of the "outside" business. I can't recall a one where the workers

have any trouble about the cohabitation outside of the home. Most of ours is where he comes and comes at night. I guess the children are in bed asleep or something, but I don't . . .

Mrs. Stapp: Comes to the home?

A. I do not think we've had a question of an interpretation of cohabitation outside of the home, not to my knowledge. I haven't had one raised with me.

Q. But the terms "regularly" and "frequently" are used in [112] the same sub-division . . . what I'm asking you is whether "frequently" and "regularly" mean the same to you?

A. Yes.

Q. Case number 22532, which you furnished a schedule to me of, indicates the client admitted pregnancy and the fact that she still maintains contact with the alleged father. Now, by "contact," did you mean that there is still a continuing relationship going on?

A. (Indicated affirmatively) That's the application that was denied. Isn't that an application?

(Attorney presented document to witness for her examination.)

A. Yes, uh-huh.

Mr. Garbus: I have no other questions.

Cross-Examination.

Questions by Mrs. Stapp:

Q. Do you know of situations where there is a substitute father in the home where the substitute father does contribute economically to the family, does make contributions of support or in some way make economic contributions to the family?

A. Do I know of what, now?

Q. Situations in your ADC case load where the substitute father does contribute and make economic support of some kind for the family?

[113] A. You mean although he is not cohabiting with the mother?

Q. No, I mean in situations where he is, do you know of situations where he does contribute and make . . .

(Remarks were off the record.)

Q. Yes, now, my question was do you know where there are situations where there's a substitute father in the home where he is actually making support payments or contributions, economic contributions, to the family?

A. Yes.

Q. You do of your own personal knowledge?

A. Now, cases I've read; I haven't visited any of these, see.

Q. But this is your knowledge as far as your knowledge of the cases?

A. Yes.

Q. Do you know of situations where there's a legal marriage and the husband does not contribute to the support of the family?

A. (Indicated affirmatively.)

Q. Do you know from your ADC case load?

A. Many.

Q. Under agency policies, is our Department able to make payments to families where there are two able-bodied persons in the home?

[114] A. No.

Q. Do you understand the substitute parent policy to identify or define one of the parents in the home?

A. (Indicated affirmatively) Whether he is married or not, if he is there.

Q. If he is there?

A. That's right.

Q. Do you have any case work supervisors in Montgomery County?

A. Yes, two.

Q. You have two case work supervisors?

A. Yes.

Q. So they do most of the supervision?

A. The ADC supervisors supervise all of the ADC cases. They're all under one . . .

(Remarks were off the record.)

Mrs. Stapp: Let's ask that question.

Q. Who in the County Department has access to the manuals of the policies developed by the State Department?

A. You want me to name them?

Q. Just answer it generally.

A. Supervisors, the case workers, child welfare workers and the Director.

Q. Is this true all over the State?

[115] A. Yes, it is.

Mrs. Stapp: Thank you.

Redirect Examination.

Questions by Mr. Garbus:

Q. Plaintiff's Exhibit No. 31 which indicates the number of cases closed in 7 selected counties because of the substitute father rule indicates that in every county but Montgomery County roughly 95 to 100 percent of the cases involve negro families. In Montgomery County, the substitute father rule was applied only in 85 or 80 percent of the cases against negro families. Do you have any understanding of why there is that kind of difference between the application of the rule in Montgomery County and in the other counties?

A. Do I understand your question . . .

Mr. Garbus: Off the record.

(Remarks were off the record.)

A. I suppose it's because we have more white cases than those other counties do.

Q. Well, it's still disproportionate.

A. And in an urban area, you probably have more of

these substitute fathers, than you would in a small white community of agricultural patterns. I mean, this is just—I couldn't back this up at all—but it's just easier [116] to get by with things in cities sometimes than it is in rural, it really is, you know, where it would be more accepted here because it could be considerably more that were not married than it would be out in a rural community where everybody knows everybody.

Q. That would apply to both negro and white. One would still expect it to be the same disproportionate percentage.

A. But in the same pattern, you don't have as much stigma among your negro culture among unmarried motherhood, the parents living together out of wedlock. It's more accepted in their culture. There's no stigma on it, so to speak.

Mr. Garbus: Off the record.

(Remarks were off the record.)

Q. It's your testimony then, as I understand it, that this open unwed relationship, as you have described it, is a cultural pattern and is more prominent in negro families than white?

A. That's right.

Q. And that white families that have an unwed relationship would tend to be more secretive about it?

(Remarks were off the record.)

Q. Do you know how many ADC cases there are at present [117] time in Montgomery County?

A. About 380, I believe.

Q. And do you know what percentage of that is negro and what percentage is white?

A. It's about 60 something negro, isn't it—we have that. I think it's about 37 or 33 white, 33 percent white and 60 something percent negro, but now I don't have those figures with me, but we do have those statistics on file.

Mr. Garbus: We'll mark as Plaintiff's Exhibit 37 the letter from Mrs. Posey to Mr. King with the enclosures.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 37.)

Mr. Garbus: I have no other questions.

Mrs. Stapp: I can't think of anything. I certainly thank you, Mrs. Posey.

Further Deponent Saith Not.

Mr. Garbus: We'll mark as Exhibit 38 the letter dated March 14, 1967, from Mrs. Stern (phon.) of Greene County to Mrs. Jordan.

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 38.)

[118] Mr. Garbus: Mrs. Stapp, I have asked the Department of Health, Education & Welfare to give me a certified copy of the handbook. Can we stipulate that when I get that certified copy, we'll mark that as Plaintiff's Exhibit No. 39?

Mrs. Stapp: Yes. We will also stipulate that Plaintiff's Exhibit 40 will be a summary of the plaintiff's case record, which is to be furnished. We will also stipulate at this time that Plaintiff's Exhibit 41 will be a statistical study of four counties of the substitute parent policy by race. The counties are going to be Jefferson, Madison, Barbour and Jackson. This is also to be furnished.

Mr. Garbus: All right, fine.

(Whereupon, hearing in the above entitled matter was closed.)

[119] **Certificate.**

State of Alabama,
County of Montgomery.

I, Lou M. Chambers, a Hearings Reporter for the State of Alabama, do hereby certify that I reported the fore-

going Depositions of Lucy K. Locklin, Augusta L. Wilkinson, Katie B. Shaw, Nan C. Murphy, Myrtle S. Preer, Blanche Saunders and Ada Kate Posey at the time and place stated in the caption hereof; that the witnesses were sworn to speak the truth, the whole truth, and nothing but the truth; that the witnesses were examined by counsel; that I later reduced my notes to typewriting, and that the foregoing 118 pages are a true and accurate record of the testimony given by these witnesses.

I further certify that I am neither of counsel nor of kin to any of said parties to said cause, nor in any manner interested in the outcome thereof.

I further certify that the reading and signing of the Depositions by the witnesses was waived by counsel and witnesses present.

Done this 15th day of April, 1967.

LOU M. CHAMBERS,
LOU M. CHAMBERS,
Hearings Reporter,
State of Alabama.

Deposition of Sylvester Smith.

(No. 14 on p. 2 of stipulation filed 4-27-67.)

(Caption Omitted.)

Heard in Montgomery, Alabama, April 21, 1967.

[1] Deposition of Sylvester Smith, taken in the above styled cause, pursuant to the Federal Rules of Civil Procedure, on the 21st day of April, 1967, commencing at or about 3:30 P. M. and ending at or about 5:15 P. M., in Room 552, State Administrative Building, Montgomery, Alabama, before Lou M. Chambers, a Hearings Reporter for the State of Alabama.

Appearances:

Mr. Stephen Wizner, appearing on behalf of Plaintiffs.

Mrs. Mary Lee Stapp and Mrs. Carol Miller, appearing on behalf of Defendants.

[2] **Stipulation.**

It is stipulated and agreed by and between parties that the Deposition of Sylvester Smith may be taken before Lou M. Chambers as Hearings Reporter, in Room 552, State Administrative Building, Montgomery, Alabama, commencing at or about 3:30 P. M. on the 21st day of April, 1967; and the parties further agree that the submission of said Deposition to the witness for reading and signing is waived, the said Deposition to have the same force and effect as if full compliance had been had with all laws and rules of court relating to the taking of Depositions. It is further agreed that it shall not be necessary for any objections to be made by counsel to any questions except as to form, or leading questions, and that counsel for both Plaintiffs and Defendants may make objections and assign grounds at the time and place of trial or at the time the said Deposition is offered in evidence or prior thereto.

It is further agreed that notice by the party taking the Deposition of the filing of said Deposition to any or all other parties is hereby waived.

[2-a] INDEX.

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EXHIBITS.

TITLE	DESCRIPTION	PAGE
Plaintiff's Exhibit 42 (Smith)	Form from which Mrs. Smith read	49
Plaintiff's Exhibit 43 (Not marked—to be furnished)	Extracts from Ala. Public Assistance Manual	49 & 50
Plaintiff's Exhibit 44-A, B and C (Not marked—to be furnished)	Affidavits of Sintter Moore, Jane Henley & Matilda Washington	50
Plaintiff's Exhibit 45-A, B, C, D and E (Not marked—to be furnished)	Affidavit by case worker, Greene County Department of Pensions & Security	50

[3] **Proceedings.**

(The witness was duly sworn by Mrs. Mildred Fischer, a duly authorized Notary Public in and for the State of Alabama.)

Deposition.

SYLVESTER SMITH,

being first duly sworn, was examined, and deposed as follows:

Direct Examination.

Questions by Mr. Wizner:

Q. Mrs. Smith, for the record, will you state your name and address, please?

A. Sylvester Smith, 1544 Curtis Street, Selma, Alabama.

Q. And that's Mrs. Sylvester Smith?

A. Yes.

Q. Mrs. Smith, how many children do you have?

A. Four of my own and one grand.

Q. I see, and what are the ages of your own children?

A. 15, 14, 12 and 10.

Q. And how old is your grandchild?

A. One year.

Q. And who is the mother of your grandchild?

A. Ida Elizabeth Smith.

Q. And she is your oldest daughter?

A. My oldest daughter.

[4] Q. Do all of these children live with you in your home?

A. Yes, they does.

Q. Where are the fathers of the children?

A. Three of the fathers is dead, and one of the fathers is in New York, I think.

Q. Now, the father that is dead, he is the father of which of your children?

A. Ida, Ernestine and Willa Lewis.

Q. And are the three oldest?

A. The three oldest.

Q. And the father of the youngest child is, you say, in New York?

A. Yes.

Q. And how long ago did he leave your home?

A. Four or five years ago.

Q. Has he ever been back?

A. No.

Q. I see.

Mrs. Stapp: I'd like to interrupt—excuse me—off the record.

(Remarks were off the record.)

Mr. Wizner: You can put that on the record.

Mrs. Stapp: I'll reask it again and you can listen.

[5] Cross-Examination.

Questions by Mrs. Stapp:

Q. Were you referring to the father of your grandchild or the father of one of your children who lived in New York?

A. My child.

Q. That was your child?

A. Yes.

Mrs. Stapp: Thank you. Now, you go on.

Mr. Wizner: Thank you.

Redirect Examination.

Questions by Mr. Wizner:

Q. Where is the father of your grandchild?

A. He's supposed to be there, too, also.

Q. I see, and when was the last time you saw him?

A. My grandchild?

Q. The father of your grandchild.

A. When she was about six months old, I believe.

Q. And how long ago was that? Was it last year?

A. Last year, yes.

Q. I see, and he hasn't been back since?

A. No.

Q. Are you the sole support of your children?

A. I am.

[6] Q. Would you tell us what your income is, please?

A. $20.00 a week.

Q. $20.00 a week, and how long have you been earning $20.00 a week?

A. Starting in January.

Q. January of this year?

A. This year.

Q. And how much did you make before that?

A. $16.00 a week.

Q. And where does this income come from?

A. Walker's Cafe.

Q. What do you do at Walker's Cafe?

A. Cook.

Q. What hours do you work?

A. Probably eight hours—go on at 3:30 in the morning and get off at 12:00.

Q. Get off at 12:00 noon? Do you have any other income?

A. No, I don't.

Q. How are you getting along on this income? Is it enough to support yourself and your children?

A. No, it's not.

Q. What do you mean "it's not"?

A. I don't have enough to pay my bills on time, buy groceries and clothes like I want to for the children.

[7] Q. I see. Have you ever received welfare?

A. Yes, I have.

Q. When was that?

A. Oh, about ten years ago, from '55, about '56 on up.

Q. From '56 until when?

A. Till September of last year.

Q. I see, and what happened in September of last year?

A. They told me that I would be cut off on account of a substitute father.

Q. And when was that?

A. That was in September.

Q. September of '66, but from 1956 until 1966, you received welfare continuously?

A. I did.

Q. And was your grant ever reduced during that ten-year period?

A. Yes, it was.

Q. And when was that?

A. I can't remember exactly.

Q. Do you remember the reason why it was reduced?

A. No—on account of something about wages or something.

Q. They said you had wages?

A. Yes.

Q. That you hadn't reported?

[8] A. That's right.

Q. I see, and how much wages were you making at that time?

A. It wasn't much, just, you know, a little on picking cotton or hoeing or something like that. It wasn't much.

Q. I see. Was it a steady job?

A. No, just sometimes.

Q. Just occasional income?

A. That's right.

Q. But they reduced your grant?

A. Yes, they did.

Q. Did they ever raise it back up again?

A. Yes, they did.

Q. Do you remember when that was?

A. They always would raise it, you know, when all the work was going in, along about . . . that would be along about November, they would give me a raise.

Q. I see. So they'd only cut you off——

A. During the summer.

Q. When you did field work?

A. That's right.

Q. How much money did you make working in the fields?

A. Well, sometimes, you know, all the time I would make all the way from about $20.00 or $30.00 a week picking [9] cotton or hoeing or something like that.

Q. But you didn't tell the Welfare Department that you were making this money?

A. No.

Q. I see. Okay. Do you know a Mr. Willie E. Williams?

A. I do.

Q. How long have you known him?

A. All my days.

Q. Pardon me?

A. All my days.

Q. I'm not trying to find out how old you are, but could you estimate how many years that's been?

A. About twenty years, maybe.

Q. About twenty years. Do you know his wife?

A. I do.

Q. How long have you known her?

A. All my days.

Q. And that's about twenty years?

A. Right.

Q. Do you know his children?

A. I do.

Q. What is your relationship with Mr. Williams and his family?

A. It's a friendly relationship.

[10] Q. I see. So Mr. Williams and his wife and children are friends of yours?

A. That's right.

Q. I see. How many children does Mr. Williams have?

A. Nine.

Q. Does he work?

A. He does.

Q. Do you know how much he makes?

A. I don't.

Q. Tell me, if you know, whether or not he makes enough to support his children?

A. I don't think so, because his wife has to work.

Q. His wife has to work?

A. (Indicated affirmatively)

Q. I see. Has Mr. Williams ever supported your children?

A. No.

Q. Is he able to support your children?

A. No.

Q. How do you know he's not able to support your children?

A. He can't support his own.

Q. Has he ever offered to support your children?

A. No.

Q. Have you ever asked him to support your children?

A. No.

[11] Q. Has Mr. Williams ever acted as a father to your children?

A. No.

Q. Has he ever done things with your children the way a father does with his children?

A. No.

Q. Has he ever bought them anything?

A. No.

Q. Has he ever taken them anywhere?

A. No.

Q. Has Mr. Williams ever given you any money?

A. A little.

Q. And when did he give you money?

A. About two years ago, he gave me $8.00.

Q. That was the last time he gave you money?

A. Yes.

Q. $8.00?

A. (Indicated affirmatively)

Q. Did he give you money prior to that time?

A. Recently.

Q. No—you said the last time he gave you money was two years ago?

A. Yes.

Q. And he gave you $8.00?

[12] A. Yes.

Q. And I wanted to know if he ever gave you any other money?

A. Sometimes.

Q. And how much did he give you?

A. $4.00 or $5.00.

Q. And how often did he do this?

A. Oh, about once a month, something like that.

Q. Was it more often than once a month?

A. No.

Q. Was it sometimes less than once a month?

A. No.

Q. It was usually once a month?

A. Yes.

Q. And he would give you $4.00 or $5.00?

A. Yes.

Q. For how long did he do this? Was it over a period of years?

A. For a while, yes.

Q. Was it one year?

A. Well, for a while.

Q. I see. Did he give you any money in 1966? You said two years ago.

A. No.

[13] Q. In 1965?

A. No.

Q. Well, 1965 was two years ago.

A. Yes, it was.

Q. So 1965, he gave you $8.00?

A. Yes.

Q. And how many times did he give you money in 1965 that you can remember?

A. Just once, all I can remember.

Q. And did he give you any money in 1964?

A. Not as I remember.

Q. I see. Well, you just testified a moment ago that he gave you $4.00 or $5.00 once a month.

A. Yes.

Q. From time to time.

A. Yes.

Q. And I'm just trying to establish when that was. Do you recall? Was it four years ago, three years ago?

A. It's been so long. It's been three or four years ago, really.

Q. I see. Did he ever give you more than $4.00 or $5.00 a month?

A. No.

Q. I see. Did he ever give you any gifts other than money?

[14] A. No.

Q. Nothing? He never bought you groceries?

A. No.

Q. How about dresses?

A. No.

Q. How about other clothes?

A. No.

Q. How about things for the house?

A. No.

Q. He never bought you anything?

A. No.

Q. But he did give you some money once in a while?

A. Once in a while.

Q. Why did Mr. Williams give you money?

A. Because of our relationship, friendship.

Q. I see. Did he volunteer the money? Did you tell him you needed it?

A. Voluntarily.

Q. I see. He was just a friend giving you some money to help you out?

A. Right.

Q. Did your case worker ever ask you whether Mr. Williams was supporting your children?

A. No.

[15] Q. Did your case worker ever ask you whether Mr. Williams was giving you anything?

A. No.

Q. She never asked you whether he was giving you any money?

A. No.

Q. If your case worker had asked you, what would you have told her?

A. I told her sometimes.

Q. You would have told her sometimes?

A. Yes.

Q. But she never asked you?

A. (Indicated negatively.)

Q. Has Mr. Williams ever lived in your home?

A. No.

Q. Did he ever visit your home?

A. Yes.

Q. How often did he visit your home?

A. Sometimes once a week, maybe once every two weeks.

Q. I see, and over what period of years did he visit your home?

A. Recently.

Q. Did he visit your home in 1966?

A. (Indicated negatively.)

Q. I see. When was the last time Mr. Williams visited your [16] home?

A. Oh, the last time . . .

Q. Was it last year?

A. Yes, it was. Let me see . . . no, it was this year. This is '67?

Q. This is '67.

A. That's right.

Q. This year, and how often has he visited you this year?

A. He's been visiting my home there about once or twice this year.

Q. Once or twice this year?

A. Yes.

Q. And how about last year, 1966?

A. I can't say. I don't know how many.

Q. Is once a . . . did you say, is once a week right? Did he visit you that frequently?

A. Once a week or once every two weeks.

Q. Once a week or once every two weeks?

Mrs. Stapp: This is in 1966?

Mr. Wizner: 1966, yes.

Q. (Mr. Wizner) Now, how about 1965, did he visit your home?

A. '65—recently, I think.

Q. Well, when?

[17] Mrs. Stapp: You mean some of the time in 1965?

Q. (Mr. Wizner) Mr. Williams, you say, visited your home this year once or twice?

A. Yes.

Q. Last year, once a week or once every two weeks?

A. That's right.

Q. Now, how about the year before that?

A. He come by the same way.

Q. Now, you say you've known Mr. Williams for twenty years?

A. Yes.

Q. Now, during that twenty years, has he every year visited your home from time to time?

A. Yes.

Q. He has? Has his wife ever visited your home?

A. Yes.

Q. How often has his wife visited your home?

A. Not too often.

Q. Has she visited your home this year?

A. Yes.

Q. She has? How many times this year?

A. Once.

Q. And how about last year?

A. Several times last year.

Q. And how about his children, have they ever visited your [18] home?

A. Yes.

Q. Have you ever visited Mr. Williams' home?

A. Yes.

Q. Have your children ever visited his home?

A. Yes.

Q. I see. So in other words, you're old family friends?

A. Right.

Q. He visits your home and his wife visits your home?

A. I visit his home.

Q. You visit his home and your children visit his home?

A. Right.

Q. Okay. Is Mr. Williams the father of any of your children?

A. No.

Q. He's not? When you were cut off welfare, what did the Welfare Department say was the reason for cutting you off?

A. Substitute father.

Q. And who did they say the substitute father was?

A. Willie Williams.

Q. I see, and what did you say to them?

A. I wanted to know how could he be a substitute father when he had a wife and family of his own to support.

[19] Q. I see, and did you explain to them that he was a family friend?

A. I did.

Q. And that he and his wife visited your home?

A. I did.

Q. And that you and your children visited his home?

A. Yes.

Q. And that you'd known each other all your lives?

A. Yes.

Q. Okay. Now, was it true that he was a substitute father of your children?

A. No.

Q. It wasn't? He wasn't acting as a father to your children?

A. No.

Q. He wasn't supporting your children?

A. (Indicated negatively.)

Mr. Wizner: Off the record.

(Remarks were off the record.)

Mr. Wizner: Now, back on the record.

Q. (Mr. Wizner) Mrs. Smith . . .

A. Yes.

Q. When you were cut off welfare, was it September 1966?

A. Yes.

[20] Q. What did the case worker tell you about your relationship with Mr. Williams?

A. I will have to cut it out.

Q. What did she mean by that?

A. Stop seeing him, I guess.

Q. Did it mean that he would have to stop visiting your house?

A. Yes.

Q. I see. Did she tell you that?

A. Yes.

Q. What else did she tell you?

A. Said if I didn't, I would be cut off, and that's what she did.

Q. Did she tell you you had to stop visiting his house?

A. No.

Q. She didn't?

A. No.

Q. Did she tell you his wife had to stop visiting your house?

A. (Indicated negatively)

Q. Did she know that his wife visited your house?

A. I told her.

Q. I see. What did you understand the substitute father rule to mean when they said you're being cut off because [21] of the substitute father rule? Did you understand what that was about?

A. I thought it meant that, you know, he was living with me or something.

Q. I see, and did your case worker explain that to you?

A. No.

Q. She didn't tell you that's what it meant? Well, what did she tell you?

A. She just said a substitute father.

Q. She didn't tell you what it meant?

A. No.

Q. But she told you that he had to stop coming to see you, to visit you?

A. Yes.

Q. I see. Was your relationship in September of 1966 with Mr. Williams the same or different from what it was in 1965?

A. No.

Q. Was it the same or different—well, by "no" what do you mean?

A. It was the same.

Q. And how about the same or different as it was in 1964?

A. It was the same.

Q. It was the same in 1963?

[22] A. It was the same.

Q. I see. Did your case worker know how long you had known Mr. Williams?

A. Yes.

Q. I see, and did she ask you what kind of relationship you were having with him?

A. Yes.

Q. She did?

A. Friendly relationship.

Q. Now, specifically, what did she ask you?

A. She asked me do I have a relationship with Willie Williams.

Q. By that she meant a sexual relationship?

A. That's what I thought she meant.

Q. I see, and did you answer her?

A. I didn't.

Q. Did you think you had to answer her?

A. No.

Q. All right. When you were cut off welfare in September of 1966, did they tell you that you had a right to appeal? Do you know what appeal means?

A. (Indicated negatively)

Q. Did they tell you that you could do something about getting back on welfare?

[23] A. Oh, yes.

Q. What did they say?

A. They told me that if I wanted to get back on, I would have to stop seeing Mr. Williams.

Q. But they didn't tell you whether or not you could

appeal the decisions? They didn't tell you you could come to the State Department?

A. No.

Mrs. Stapp: Now, when was this that they didn't tell you?

Mr. Wizner: In September of '66 when she was cut off.

Mrs. Stapp: In September of '66?

Mr. Wizner: Yes.

(Questions by Mr. Wizner cont'd:)

Q. During the years you were on welfare, did anyone ever tell you you had a right to appeal from what the Welfare Department did?

A. No.

Q. I see. When you were cut off in September of 1966, did they tell you how to reapply for welfare? Did they tell you you could reapply?

A. Only if I would break my relationship.

Q. I see, and how were you supposed to prove that you had done that, did they tell you?

[24] A. By going and telling them.

Q. But they said they would take your word for it?

A. I guess they would.

Q. And were you willing to do that?

A. No.

Q. And why were you not willing to do that?

A. Because I wasn't going to end it.

Q. I see. What was your specific . . . why didn't you want to end your friendship with Mr. Williams?

A. Well, if I end with him, I was going to take a relationship with somebody.

Q. I see. All right. Was there any relationship between your children and Mr. Williams?

A. No.

Q. Any relationship at all?

A. No.

Q. I see, but your children did go to his house sometimes to visit him and his wife and his children?

A. Yes.

Q. I see. During the ten years that you've dealt with the Welfare Department, how were you treated? Do they treat you well?

A. Yes, so far.

Q. And how do they address you when they spoke with you? [25] Do they call you Mrs. Smith?

A. Sylvester Smith.

Q. Did anyone in the Welfare Department ever call you Mrs. Smith?

A. No.

Q. I see. Were you friends with these people?

A. So far. They treat me all right.

Q. I see. Did you call them by their first name?

A. Only Miss Buster. I call her Miss Buster.

Q. I see. Would you like to be called Mrs. Smith?

A. I would.

Q. I have one last question, Mrs. Smith. Would you rather work or stay home with your children?

A. Stay at home.

Q. And why?

A. Because I can give them more care.

Q. I see. Who takes care of your children when you're working?

A. My mother has three—send them to school till the weekend, then they comes home, and Ida, she's at home with me, she's the grand.

Q. And your daughter and your mother, do they take good care of your children?

A. Well, my daughter takes pretty good care of the baby, [26] but I can't say too much about the others because I don't see them regular, except on weekends.

Q. Do they take as good care of your children as you would take?

A. No.

Q. Do you think it's good for your children for you to be working?

A. I need to work for to help my children and my home.

Q. If you were receiving welfare, would you work anyway?

A. No.

Q. And why wouldn't you?

A. Stay home and keep my children.

Mr. Wizner: I see. I have nothing else right now.

Mrs. Stapp: Let's see. I have two or three little questions at this point.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Mrs. Smith, did you bring a letter with you to the County Department in October of this year?

Mr. Wizner: That's 1966, I believe.

Q. Yes, that would be October 1966—with reference to a letter that you had written the President or someone in the President's office had written you?

A. Yes.

[27] Q. Did Mrs. Stancil or Miss Buster or any of the workers down there see the letter?

A. No.

Q. Did you discuss the letter with them?

A. Yes.

Q. Did they indicate that they knew anything about any letter?

A. No.

Mrs. Stapp: Mr. Wizner, I'd like to stipulate for the record, if I may, that this office caused a search to be made of the County Department records and files and the State Department records and files and we did not receive any letter of referral or any other sort of communication from the Federal Government, the President's office, from the Department of Health, Education & Welfare,

or from any Federal agency concerning Mrs. Sylvester Smith's complaint or concern, according to what you had stated, as I understand it, the County Department . . .

Mr. Wizner: May we go off the record for a moment?

(Remarks were off the record.)

Mr. Wizner: I'm willing to stipulate that you were unable to find it.

Mrs. Stapp: Okay. Fine. Okay, now, we'll start again.

[28] (Questions by Mrs. Stapp cont'd:)

Q. Do you read, Mrs. Smith?

A. A little.

Q. Do you read notices that the Welfare Department sends you?

A. Yes.

Q. Do you recall receiving a paper which stated that you could appeal any decision that the County Department made concerning your grant?

A. What do you mean?

Q. A piece of paper which told you that you could appeal to the State Office a decision that the County Department made affecting your grant?

A. Not to my remembrance.

Q. Are you saying you don't remember receiving a piece of paper of that sort?

A. (No response.)

Mr. Wizner: Could I help you with this, ask a few questions?

Mrs. Stapp: Yes.

Redirect Examination.

Questions by Mr. Wizner:

Q. Mrs. Smith, how much education have you had?

A. I went through ninth grade.

[29] Q. Ninth grade?

A. Yes.

Q. I see. Where did you go to school?

A. Tyler, Tyler High.

Mrs. Stapp: T-y-l-e-r.

Q. And you went through the tenth grade, you say?

A. Ninth grade.

Q. I see, and you learned how to read in school?

A. A little, yes.

Q. I see. Well, let's try to figure out what "a little" is. Can you read a newspaper?

A. Yes.

Q. I see, and if you receive a notice from the Welfare Department, can you read what it says?

A. Yes.

Mr. Wizner: Okay.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Do you remember ever receiving a piece of paper entitled "Rules of Eligibility"?

A. I can't remember.

Q. If you had received such a piece of paper, would you have read it?

A. Yes, I would've.

[30] Q. Now, do you recall Mrs. Stancil talking with you at the Welfare Department in October of this year, of last year, 1966, when you were there to discuss the substitute parent policy, do you recall her telling you that you could appeal the decision of the agency to the State Office here in Montgomery?

A. No, she didn't tell me I could come to Montgomery. She told me if, you know, if I wanted to find out anymore information, to come back there.

Q. At the time you were told that you were not going to be eligible for ADC anymore, did anyone at the County Office discuss with you that if you didn't like that decision, you could appeal the case to Montgomery to our State Agency?

A. No.

Q. Is it possible that you were in an upset condition and didn't remember that being told you, or do you think you would have remembered it?

A. I would've remembered it if she'd have told me to come.

Q. Not that you had to come, but that you could have come?

A. I would've remembered if she had've told me I could've come.

Q. Do you own any property?

Mr. Wizner: I don't want to interrupt you. I just [31] wonder if I could ask her one question.

Mrs. Stapp: Yes, go ahead.

Redirect Examination.

Questions by Mr. Wizner:

Q. Why would you have remembered if she had told you this?

A. 'Cause I would have come up here.

Q. Why would you have come up here?

A. To see why they cut me off.

Mr. Wizner: I see.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Did anyone tell you you could write about your dissatisfaction about the agency cutting you off?

A. No. I did that myself.

Q. You did that yourself?

A. (Indicated affirmatively.)

Q. The time you wrote the President, is that what you mean?

A. Yes.

Q. Do you own any property?

A. No.

Q. Do you own any land or cattle?

A. No.

Q. An automobile?

A. No.

[32] Q. Do you have any bank accounts?

A. No m'am!

Q. Do you have any cash at home?

A. No m'am!

Q. Do you have any money anywhere?

A. No m'am!

Q. Have you sold or given away any property within the last twelve months?

A. No m'am!

Q. Do you give money to anyone besides your children?

A. No m'am! Where would I get it from?

Q. What rent do you pay?

A. $20.00 a month.

Q. $20.00 a month?

A. Yes m'am.

Q. What's the name of your landlord?

A. Mrs. Nora Bennett.

Q. Does this rent include lights, water and gas?

A. No.

Q. What insurance do you carry for yourself and children?

A. Southern United.

Q. Do you belong to any societies which pay money when you or the children are ill?

A. I belongs to a ten-cent society which pays fifty cents [33] a week if they get sick.

Q. I believe you've already testified as to where you work and how much money you made on your job. Is that $20.00 a week?

A. That's right.

Q. What is your take-home pay? Is that $20.00?

A. That's right, that's right.

Q. Do you have any expenses in holding this job, any bus fare, baby sitter's fees or anything to pay?

A. No.

Q. I believe you said your mother takes care of your children?

A. That's right.

Q. Do you have any boarders living at your home?

A. No.

Q. Do your children do any work?

A. No.

Q. They don't work?

A. No.

Q. Do you draw any social security from your deceased husband?

A. I sho' don't.

Q. Do your children receive any social security?

A. No.

[34] Q. Was he a veteran?

A. No.

Q. Did he own any property?

A. Not as I knows.

Q. How much help do you actually receive from your parents? Do you have just one parent living or two?

A. I have both father and mother.

Q. How much help do you receive from your parents?

A. None.

Q. Except for the baby sitting service?

A. That's all, that's all, and I don't call that help, because I have to take care of them right on.

Q. How about your brothers or sisters?

A. No.

Q. Do they give you . . .

A. No.

Q. Do any relatives count you and your children as dependents for income tax purposes?

A. No.

Q. Do you keep any money at all or anything at home?

A. I can't.

Q. You have no savings?

A. Not at all.

Q. You've testified that Mr. Williams gives you money from [35] time to time?

A. Recently, yes.

Q. Recently has given you money?

Mr. Wizner: I believe she testified the last time was two years ago.

A. Two, that's right.

Mrs. Stapp: I believe she also testified that he's given her money in 1967, didn't she? I thought I understood that.

Mr. Wizner: She said he had visited her in 1967. Well, that's okay.

Mrs. Stapp: Well, let's do find out definitely then.

(Questions by Mrs. Stapp cont'd:)

Q. Have you received any money from Mr. Williams since January of this year—think, now—any money at all?

A. No.

Q. Have you received any money from him since October of this year?

A. No. You mean last year?

Q. 1966.

A. No.

Q. Have you received any presents or gifts or anything of value from Mr. Williams?

A. No, no.

[36] Q. Has he given you anything at all since October of 1966?

A. No.

Q. Did you state to Mrs. Stancil that you maintained a sexual relationship with Mr. Williams?

Mr. Wizner: Could we go off the record for a moment, please?

(Remarks were off the record.)

Mrs. Stapp: All right. Would you make that statement for the record, if you will?

Mr. Wizner: Yes, I will. Let the record reflect that prior to this deposition, I spoke with Mrs. Smith and she indicated to me that she did not care to discuss whether or not she had had any sexual relations with Mr. Williams other than those she had already talked about, has already previously told about.

Mrs. Stapp: Are you claiming any privilege as a basis for her refusal to answer at this time?

Mr. Wizner: The bases for her refusal are twofold. The first is her constitutional rights of privacy under the Fourteenth Amendment to the Constitution, and the second is the Fifth Amendment in that such testimony might possibly tend to incriminate her under State adultery and fornication statutes.

Mrs. Stapp: Off the record.

[37] (Remarks were off the record.)

Q. (Mrs. Stapp) Is that true, you will answer what you talked with Mrs. Stancil about?

A. Yes.

Mr. Wizner: Off the record.

(Remarks were off the record.)

Mrs. Stapp: Well, I thought we are . . . what are you going to do about answering this question? I'm going to ask it again.

Q. (Mrs. Stapp) Did you discuss with Mrs. Stancil in October 1966 at the County Office the nature of your relationship with Mr. Williams?

A. (No response.)

Mr. Wizner: Mrs. Stapp, I think I'm going to instruct Mrs. Smith not to answer that on the grounds previously

stated. The State or anyone else has no right to ask her those questions.

Q. (Mrs. Stapp) And I'm going to ask you again, did you discuss with Mrs. Stancil at that time if you maintained a marital relationship with Mr. Williams?

A. (No response.)

Mrs. Stapp: And what is your . . . do you have any instructions on that?

Mr. Wizner: Off the record for a moment.

[38] (Remarks were off the record.)

Mr. Wizner: Okay. You want to ask the question?

Q. (Mrs. Stapp) Did you ever discuss with Mrs. Stancil if you had maintained—and I think I'll use several words this time—a sexual relationship or a marital relationship with Mr. Williams?

A. No, I haven't told her anything.

Q. Do you deny that you discussed your sexual relationship with Mr. Williams with Mrs. Stancil?

A. Do I deny it?

Q. Yes. Are you saying that you did not talk to Mrs. Stancil about that?

A. She didn't only say Mr. Williams, she said that . . . she did talk that I didn't supposed to have no relationships not only with Mr. Williams or nobody, and I told her that was my business.

Q. That wasn't my question, though. My question related to Mr. Williams.

A. I didn't tell her 'specially Mr. Williams or nobody.

Q. But you did discuss sexual relationships, are you saying, concerning somebody with Mrs. Stancil? You did discuss having sexual relationships with somebody with Mrs. Stancil?

A. She did tell me I'm not supposed to have sexual relation- [39] ships with Mr. Williams or nobody.

Q. Did you discuss whether you did or did not have?

A. No, I didn't.

Q. Did you admit having a sexual relationship?

A. No, no.

Q. Do you deny that you admitted to Mrs. Stancil that you maintained a sexual relationship?

A. Do I deny it?

Q. Yes. In other words, do you tell me that you did not tell Mrs. Stancil that you did maintain a sexual relationship?

A. I didn't tell her.

Q. You did not tell her that?

A. (Indicated negatively.)

Mr. Wizner: Off the record a minute, please.

(Remarks were off the record.)

Q. (Mrs. Stapp) All right, do you know why Mrs. Stancil thought you were maintaining a sexual relationship with Mr. Williams?

A. She said somebody told her.

Q. Did you deny that it was true?

A. No, I didn't deny it, but I told her it wasn't none of her business.

Q. Did you tell her that if you did not have relationships [40] with Mr. Williams, you would have them with someone else?

A. I did.

Q. Did you tell Mrs. Stancil that you had been going with Mr. Williams for the past several years?

A. I did, I did.

Q. By "going with," did you mean dating?

A. No—friendship.

Q. Has Mr. Williams ever asked you to marry him?

A. No. How could he?

Q. Well, my next question is has he ever stated that he planned to get a divorce?

A. No, not to me.

Q. Has he ever given any indication that he plans to get a divorce?

A. No.

Mrs. Stapp: Off the record.

(Remarks were off the record.)

Mrs. Stapp: All right, back on the record.

Q. (Mrs. Stapp) Did you tell her that you intended going with him, intended to continue going with him?

A. No, I didn't.

Q. Did you tell Mrs. Stancil that Mr. Williams is good to you and another man might not be?

A. No!

[41] Q. Do you deny telling her that?

A. I didn't tell her that.

Q. Did you tell Mrs. Stancil that if you stopped going with Mr. Willie Williams, you would go with another man?

A. I told her that.

Q. Did you tell her that you are still young and that as long as you wanted a man, you intended to have one?

A. As long as I was that age, I was going to do so.

Q. Did you tell her there was no use in telling her that you would break up with Mr. Willie Williams because you intended to continue having relations with him?

A. I didn't tell her that.

Q. Did you tell her that you were having sexual relations with Mr. Williams?

A. No, I didn't.

Q. Did you tell her you intended to continue your relationship with Mr. Williams?

A. No, I didn't.

Q. Did you tell Mrs. Stancil that you understood the policy and that it had been explained to you?

A. I told her I didn't understand it—why.

Q. Did she try to explain it to you?

A. They tried the best they could.

Q. Who all tried to explain it?

[42] A. Miss Buster, and I don't know what the other lady's name is, but she said . . . oh, Mrs. Johnson.

Q. Mrs. Johnson and Mrs. Stancil?

A. Yes.

Q. Does Mr. Williams ever stay overnight in your home?

A. Sometimes.

Q. Has Mr. Williams ever given you . . . excuse me. Strike that. I've asked these questions. What would you say the word "cohabit" means?

A. (Indicated negatively.)

Q. Do you know?

A. (Indicated negatively.)

Q. What would you say the word "marital relationship" means?

A. Just like I was married to a man.

Q. Yes. If a case worker asked you if you were having a marital relationship, what would you think she meant?

A. I ain't got the slightest idea.

Q. You would know what a sexual relationship meant?

A. (Indicated affirmatively.)

Q. Does the father of the child who lives in New York ever help you with that child's support?

A. No.

Q. Have you tried to find him?

A. No.

[43] Q. In case of emergency, would you know how to get in touch with him?

A. I wouldn't.

Q. Do you know where his parents or brothers or sisters live?

A. I think his parents or some of them are in Mobile.

Q. Do you think they know where he is?

A. I don't even know, because I haven't heard from them in years.

Mr. Wizner: I have a few questions.

Mrs. Stapp: Good. Maybe we'll think of a few more.

Redirect Examination.

Questions by Mr. Wizner:

Q. Mrs. Smith, are you required to wear a particular uniform on your job?

A. Wear?

Q. Yes, do you have to wear a uniform?

A. No.

Q. Do you pay your mother or your daughter to baby-sit for your children?

A. My mother, I don't pay her, but I helps her as far as I'm able with the children.

Q. Does that mean that you give her some money sometimes?

A. Not money. I buys a little groceries.

Q. You buy a little groceries, and that's because she takes care of your children?

A. (Indicated affirmatively.)

[44] Q. Do your parents know Mr. Williams and his family?

A. Yes.

Q. They do?

A. Yes.

Q. And Mr. Williams and his family knows your parents?

A. Yes.

Q. Have your parents ever stayed overnight in Mr. Williams' home?

A. No, not as I know of.

Q. Has Mr. Williams or any of his family ever stayed overnight in your parents' home?

A. Not as I know.

Q. Have you ever stayed overnight in Mr. Williams' home?

A. No!

Q. Has Mr. Williams' wife ever stayed overnight in your home?

A. No.

Q. All right. Did the Welfare Department ever ask you to swear out a non-support warrant against the father of your youngest child who is in New York?

A. No.

Q. They never did?

A. No.

Q. I see. Did they ever tell you you had to find him and see if he couldn't support the child?

A. Yes, they told me that.

[45] Q. They did?

A. Yes.

Q. Did you try to find him?

A. I didn't know how.

Q. You didn't know how to try, did you? They never told you you had to swear out a non-support warrant?

A. No.

Q. Do you know whether the Welfare Department ever swore out a non-support warrant?

A. Not as I know of.

Mr. Wizner: That's all I have, Mrs. Stapp.

Recross-Examination.

Questions by Mrs. Stapp:

Q. Earlier when you were receiving a welfare grant and it was learned that you could not locate the father of the child who you now say lives in New York, they did include the needs of that child in your check?

A. Yes, they did.

Q. Mrs. Smith, did you know that if the County Welfare Agency did not apply the substitute parent policy correctly, you could go to the County Office anytime you want to and apply?

A. No, I didn't.

Q. Well, you can.

A. I didn't know it.

[46] Q. You can reapply whether they applied it correctly or whether you understood it correctly, you can apply at anytime. Did you know that at anytime that you are dissatisfied with a decision made by the County Department, you can appeal to this office and have your aid determined in an administrative appeal?

A. I didn't know nothing about that.

Q. Well, that is correct. You can do that.

Mrs. Stapp: Off the record a minute.

(Remarks were off the record.)

Q. (Mrs. Stapp) I'm going to ask you this again, now that we have shown it to you. I'm going to show you the mimeographed piece of paper that our County Departments are required to send applicants or recipients of public assistance, and ask you if you've ever received one of these?

A. Yes, I have.

Mr. Wizner: Okay.

Q. I'm going to ask you if you can read on the back of this piece of paper where it tells about how to take an appeal?

A. (No response.)

Q. Do you understand about the administrative appeal now?

A. No, I don't.

Mr. Wizner: You ought to have her to read it.

Q. Would you read it? I would begin here, "If his application . . ."

Mr. Wizner: Mrs. Smith, would you read that aloud, as best you [47] can?

A. "If his application does not actually . . . within one month of his . . . is dissatisfied for any . . ."

Q. "Or is," did it say?

A. "Of his . . . for any other reason, he may write the State Department of Physical & Social Security in Montgomery, Alabama . . ."

Q. Is that "Pensions & Security"?

A. Yes. "Or the County Department of Pensions & Security about his . . ." what is that, "complaint"?

Mr. Wizner: Yes.

A. "He can ask for either a review of his case by the State Department or a hearing. The State Department and the County Department operated under the same rules. If he wants a hearing, he must file in requesting within ninety days following the action with which he is dissatisfied. He must give the date on which the cause of dissatisfied occur. The person or other granted relation . . ."

Q. That's enough.

A. I can't see anymore.

Mr. Wizner: Can I ask her a question, would that be all right?

Mrs. Stapp. Yes.

Redirect Examination.

Questions by Mr. Wizner:

Q. Mrs. Smith, in your own words, what does that mean that you've just read?

[48] A. That if I was dissatisfied with what the peoples of the welfare told me in Selma, that I could have come here. Is that right?

Mrs. Stapp: That's right.

Q. I believe it says you could write to the State Department.

A. Yes.

Q. All right. Can you write, Mrs. Smith?

A. A little.

Q. Can you write well enough to write a letter?

A. Yes.

Q. Would you be able to write a letter saying "I want to appeal"?

A. Yes.

Q. I see. Did anyone ever explain this form to you when you received it?

A. No.

Q. No one ever told you what it meant?

A. No.

Recross-Examination.

Questions by Mrs. Stapp:

Q. I want to at this point ask you if a case worker ever offered to help you write a letter of appeal which you needed to do in case you were dissatisfied with your claim?

A. No.

Mr. Wizner: But you understand now what it means?

A. Yes.

[49] Q. (Mrs. Stapp) You stated you would be able to write a letter yourself?

A. Yes.

Q. Did you write your own letter to President Johnson?

A. I did.

Q. You do understand now that at anytime you think you wish to apply for public welfare, then you can go down now and apply? You do understand that now?

A. I understand.

Q. Do you understand also that you may appeal any decision to this office that you're dissatisfied with?

A. I understand.

Mrs. Stapp: Thank you.

Mr. Wizner: Madam Reporter, would you enter this form from which Mrs. Smith has been reading as Plaintiff's Exhibit No. 42?

(The above referred to document was then so marked by the Reporter as Plaintiff's Exhibit 42.)

Mr. Wizner: All right. Madam Reporter, at this time, we would like to put in as Plaintiff's Exhibit 43 the provisions of the Alabama State Welfare Manual dealing with Administrative Appeals.

Mrs. Stapp: Thank you.

(The above referred to document was not so marked by the Reporter as it was to be furnished at a later date.)

Mr. Wizner: Let the record reflect that Mrs. Stapp requested [50] counsel for the Plaintiff to produce Mr. Williams, the alleged substitute father, for the purpose of taking his deposition. At that time, I advised Mrs. Stapp that were Mr. Williams to appear, we would instruct him not to answer ay questions relating to his alleged sexual relationship with Plaintiff on the grounds of his rights of privacy under the Fourtenth Amendment and the Fifth Amendment of the United States Constitution. The Plaintiff has testified fully and candidly with respect to the number of times that Mr. Williams visited her at her home. His testimony, were he to testify, would not be any different from that which Mrs. Smith has given.

Mrs. Stapp: Instead of Exhibit 43 . . . Exhibit 43 is the pertinent extracts from the Alabama Public Assistance Manual pertaining to all eligibility requirements, all pertinent eligibility requirements, for aid to dependent children and all regulations pertaining to appeals, public assistance appeals, pertinent as agreed between counsel.

(The above referred to document was not so marked by the Reporter as it was to be furnished at a later date.)

Mr. Wizner: At this time, we would like to put in as Plaintiff's Exhibit 44-A, B and C, affidavits of Sintter Moore, Jane Henley and Matilda Washington. We would also like to put in as Plaintiff's Exhibit 45-A, B, C, D and E, affidavits by case workers, Greene County Department of Pensions & Security.

Mrs. Stapp: All right.

[51] (The above referred to documents were not so marked by the Reporter as they were to be furnished at a later date.)

Further Deponent Saith Not.

(Whereupon, hearing in the above entitled matter was closed.)

[52] **Certificate.**

State of Alabama,
County of Montgomery.

I, Lou M. Chambers, a Hearings Reporter for the State of Alabama, do hereby certify that I reported the foregoing Deposition of Sylvester Smith at the time and place stated in the caption hereof; that the witness was sworn to speak the truth, the whole truth, and nothing but the truth; that the witness was examined by counsel; that I later reduced my notes to typewriting, and that the foregoing 51 pages are a true and accurate record of the testimony given by this witness.

I further certify that I am neither of counsel nor of kin to any of said parties to said cause, nor in any manner interested in the outcome thereof.

I further certify that the reading and signing of the Deposition by the witness was waived by counsel and witness present.

Done this 25th day of April, 1967.

/s/ LOU M. CHAMBERS,
LOU M. CHAMBERS,
Hearings Reporter,
State of Alabama.

APPENDIX

SUPREME COURT, U. S.
FILED
MAR 4 1968
JOHN F. DAVIS, CLERK

VOLUME II. EXHIBITS

APPENDIX

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

NO. 949

RUBEN K. KING, Et Al., *Appellants,*

v.

MRS. SYLVESTER SMITH, Et Al., *Appellees.*

On Appeal From the United States District Court
For the Middle District of Alabama,
Northern Division

ST. LOUIS LAW PRINTING CO., INC., 411-15 N. Eighth St., 63101. CEntral 1-4477.

IN THE

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v.

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VOLUME II—EXHIBITS.

PLAINTIFFS' EXHIBIT 1.

(Filed April 26, 1967.)

Exhibits to deposition of Fred H. Steininger as listed on page 3 of stipulation filed April 27, 1967.

(Only these exhibits were filed. Deposition as noted on page 1 of stipulation of Apr. 27, 1967 was never filed.)

United States of America

Department of Health, Education, and Welfare

67-23

Certification of True Copy

Pursuant to the provisions of Section 3505, Title 42, United States Code and the authority vested in me by the Secretary (30 F. R. 13908), I hereby certify that the annexed are true copies of the documents on file in the Department of Health, Education, and Welfare.

In Witness Whereof, I have hereunto set my hand and caused the seal of the Department of Health, Education, and Welfare to be affixed, on this 2nd day of March, 1967.

/s/ MANUEL B. HILLER,
MANUEL B. HILLER,
Assistant General Counsel.

(Seal)

Department of
Health, Education, and Welfare

Social Security Administration
Washington 25, D. C.

Bureau of Public Assistance

January 17, 1961

State Letter No. 452

To State Agencies Administering Approved Public Assistance Plans

Subject: Aid to Dependent Children—"Suitable Home" Requirements

Nation-wide concern has been directed in recent months to the consequences of provisions in some State plans for aid to dependent children that deny assistance to needy children on the basis of so-called "suitable home" requirements. Under such provisions the child's home is found by the administrative agency to be "unsuitable," but the child is left in the home, deprived of the support which he needs. A large number of national welfare agencies and citizens groups have urged the Department of Health, Education, and Welfare to take appropriate action to protect needy children against such hardships.

This situation has been carefully studied within the Department of Health, Education, and Welfare from its legal, social, and administrative aspects. On the basis of that review, the Secretary of Health, Education, and Welfare, Arthur S. Flemming, has made the following determination:

"I have concluded that when a needy child who otherwise fits within the Aid to Dependent Children

program of the State is denied the funds that are admittedly needed to provide the basic essentials of life itself, because of the behavior of his parent or other relative, the State plan imposes a condition of eligibility that bears no just relationship to the Aid to Dependent Children program. I therefore believe that this Department should inform the State agencies administering Aid to Dependent Children plans that eligibility conditions with the effect described above are not compatible with entitlement for continued Federal grants."

The Commissioner of Social Security has therefore approved the following statement, effective July 1, 1961:

A State plan for aid to dependent children may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable, while the child continues to reside in the home. Assistance will therefore be continued during the time efforts are being made either to improve the home conditions or to make arrangements for the child elsewhere.

It is of great importance that State agencies should be concerned about the effects on children of the environment in which they are living and that services be provided which will be directed toward affording the children maximum protection and strengthening their family life. Whenever there is a question of the suitability of the home for the child's upbringing, steps should be taken to correct the situation or, in the alternative, to arrange for other appropriate care of the child. It is completely inconsistent, however, to declare a home unsuitable for a child to receive assistance and at the same time permit him to remain in the same home exposed to the same environment.

The requirement stated above will be issued in the Handbook of Public Assistance Administration, and will be supplemented by additional interpretation.

Sincerely yours,

/s/ KATHRYN D. GOODWIN,
KATHRYN D. GOODWIN,
Director.

ALABAMA—Plan Material—Substitute Father Policy

Revised policy effective 8/1/1956

(1) Man living in home—not married to mother—having privileges of a husband—is considered to be a parent and all children in home are ineligible.

(2) Man not living in home but visiting frequently is responsible for his children in home and they are not eligible. Other children in home take deprivation from own father.

Policy Revision Administrative Letter No. 1441, effective 4/1/61

(1) Man living in home similar to (1) above

(2) Man not living in home but visiting frequently is responsible for his children if

(1) He admits paternity

(2) Paternity is legally established

(3) He denies paternity but preponderance of evidence indicates he is father.

Man is responsible only for his own children in home. Other children in home take deprivation from own father.

Policy revisions effective 12/1/62

This is material in approved plan

Policy revision effective July 1964—

Administrative Letter No. 1919

Policy revision effective 2/26/1965

Administrative Letter No. 1986

Policy revision effective 2/1/66

Currently in effect in Alabama

III. *Definition of Legal Parent and Legal Responsibility of Parent for Support of Children.*

A. *Legal parents are defined as follows:*

1. Father and mother of a child born of a valid marriage.

2. Legally adoptive father or mother.

3. Father where paternity has been legally established.

4. Mother of a child born out of wedlock.

The legal definition of a parent is used when support is being sought through court, except when the establishment of paternity and support are being sought under Title 27, Sections 12(1)-12(9), Code of Alabama 1940, as amended.

B. *Legal Responsibility of Parent for Support of Children.*

Alabama law holds the father and mother equally responsible for the support of children under 18 years of age. The fact that parents are divorced or legally separated and custody granted to one parent does not necessarily release the other from his responsibility for support. Whether children live with

their parent(s) or other relatives, verify whether or not the parent(s) can provide for his children.

IV. *Child Ineligible if in Home of Two Able-Bodied Parents.*

If children live in the home of two able-bodied parents, ADC cannot be given even though there may be no source of income. By regulation, a stepfather or stepmother is considered a parent under this policy. (Also, see discussion below of father and mother substitute.)

If the father, even though disabled, has full-time remunerative employment, aid cannot be given. (See discussion of full-time remunerative employment for a disabled father under "Physical or Mental Incapacity.")

V. *Child Ineligible if There Is a Father or Mother Substitute.*

A. *Father Substitute*: An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, an application will not be approved, or a case will not be continued eligible, unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under

"Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or frequently visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequently visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately.

The mother of an illegitimate child applying for ADC must, under oath and in writing, give the name and last known address of the father of the child if the child is one year old or under. If she is unable to name the father of an illegitimate child one year or under, she must, under

oath and in writing, set forth her reasons for not knowing who is the father of her child. In either of the preceding instances, she must present two acceptable reference statements, as previously described, to establish that the relationship with the "father" is broken.

The counsellor will prepare the necessary affidavit for the mother to sign and have notarized. (It can be notarized by a staff member of the county department.) If she refuses to sign it, she will not be eligible for aid.

B. *Mother Substitute*: If a child's natural or adoptive father cohabits with a woman *who lives in his home,* she is considered a substitute mother of all the children in his home. The woman's pregnancy or having a baby six months or under is prima facie evidence that she is cohabiting with the father in whose home she is living.

[Superseded by Sub. 277 (which is N. L.)].

II-26

When there appears to be a substitute mother *living in the home,* an application will not be approved or a case will not be continued eligible unless the father establishes that one of the following situations exists; (1) he and/or the substitute mother meets the criteria of disability as described under "Physical or Mental Incapacity"; or (2) the substitute mother is no longer living in the home.

Evidence showing that the substitute mother has moved out of the father's house includes proof such as: the mother has married another man; or she is in a public institution; or she is living at another address; or a notarized statement by the father and substitute mother that she is no longer living in his home. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the father will be given 30 days to

present his evidence before his application is disapproved or his case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the father, the worker will assist in any way possible to help the father establish that the substitute mother is no longer in the home. Also, before rejecting an application or closing a case, the worker will talk with the father about reasons for the agency's action and about his right to reapply at any time that there is no longer a substitute mother in the home. If the family is otherwise eligible, the case should be recertified for aid immediately.

Note: When an application is rejected or a case closed because of a substitute father or mother or for any other reason and the county has a commodity program, the parent should be advised to reapply for commodities under the category of "Other." If the parent meets the requirements, he (or she) can receive the commodities.

VI. *Deprivation of Parental Support or Care.*

A needy child, even though deprived of one parent's support or care by reason of death of one or both parents; physical or mental incapacity of one or both parents; or continued absence from the house of one or both parents is not automatically eligible for aid, as other requirements must be met.

A. *Death.*

Consider a child deprived of parental support by reason of the father's death if:

1. There is no able-bodied stepfather in the home; *or*

2. There is no able-bodied father substitute as described earlier; *and*

Whether children live with their parent(s) or with other relatives, establish whether the parent(s) is without sufficient income and resources to provide for his children. The fact that parents are divorced or legally separated and custody granted to one parent does not necessarily release the other from his responsibility for his children.

Child Ineligible if in Home of Two Able-Bodied Parents—If children live in the home of two able-bodied parents, ADC cannot be given even though there may be no source of income. By regulation, a stepfather or stepmother is considered a parent under this policy. In addition, a man or woman who *lives in the home* and maintains a marital relationship with a child's natural or adoptive parent, even though unmarried to him (her), is considered a parent of all the children in the home.

If the father, even though disabled, has full-time remunerative employment, aid cannot be given. (See discussion of full-time remunerative employment for a disabled father under "Physical or Mental Incapacity.")

For the policies under this heading to be effective, at least one of the parents must be the child's legal parent.

Death.

Consider a child deprived of parental support by reason of the father's death if:

1. There is no able-bodied stepfather or other able-bodied father substitute in the home. (A father substitute is defined as a man who lives in the home and maintains a marital relationship with the mother, though unmarried to her.); and

2. The natural or adoptive mother is unable to meet the child's needs according to agency standards. [Amended by Adm. of 1919 (Sub. 234)]

Consider a child deprived of parental care by reason of the mother's death if the legal father with whom the child lives is unable to meet the child's needs according to agency standards, *unless*:

There is an able-bodied stepmother or other able-bodied mother substitute in the home. (A mother substitute is defined as a woman who lives in the home and maintains a marital relationship with the father, though unmarried to him.)

Sometimes when the father's work is at home or there are older children (16 to 18) only, there may be no need for a caretaker and the children would not be considered deprived of parental care.

Administrative
Letter No. 1919

July 7, 1964

State of Alabama

Department of Pensions and Security
Montgomery.

To: County Directors of Pensions and Security

Subject: Further Restrictions in the Aid to Dependent Children Program, Effective Immediately

As I indicated to you in Administrative Letter No. 1910 released June 17, 1964, it is necessary to restrict our large aid to dependent children caseload. Given below is an additional restriction related to *Deprivation of Parental Support or Care,* Chapter Two, *Alabama Manual,* Part I. It further restricts policies relating to a substi-

tute father and supercedes any policies conflicting with it; for example, the man (able-bodied or disabled) in and out of the home is considered a substitute father of all the children of the applicant/recipient in her home, whether they are his or not.

Substitute Father: A man, married or single, is considered a substitute father of all the children of the applicant/recipient in her home, whether they are his or not, if: (a) he lives in the home with the applicant/recipient for the purpose of cohabitation; or (b) if not living in the home regularly, he visits frequently for the purpose of cohabiting with the applicant/recipient; or (c) he has otherwise recently cohabited with the applicant/recipient as evidenced by her pregnancy or a baby six months of age or under. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as described above and an application must be rejected or a case closed immediately when this situation exists. The factor of deprivation can be re-established only in a situation where strong, convincing evidence is submitted proving that the substitute father has discontinued his relationship. Evidence would include proof such as: the man has moved to a distant place, which would mean at least out of the county in which the mother lives, or has been admitted to a public institution.

When a mother has named a man as the father in "c" above, but he denies paternity, the mother is ineligible if she continues to maintain that he is the father. If she admits to misrepresenting the identity of the father, then she is ineligible unless she can establish that another man is really the father and the relationship is broken.

If a mother cannot name the father of her child, her application cannot be approved unless she can prove

that she has discontinued her relationships with the possible fathers. She would have to present proof such as: the possible fathers are in distant places or in public institutions. If such proof cannot be given, it will be presumed that the child is not deprived of support.

The burden of proof rests with the mother. Her testimony must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; neighbors; ministers; or grocers.

Please put this policy into effect as you take applications, make reviews, or have other contacts. If you know of a case affected by this policy change, please get in touch with the recipient, explain the policy, and close the case.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Administrative
Letter No. 1986

February 26, 1965

State of Alabama

Department of Pensions and Security
Montgomery.

To: County Directors of Pensions and Security

Subject: Further Interpretations Relating to Administrative Letter No. 1919 Concerned with the Substitute Father Policy

I am writing this letter to emphasize and clarify current interpretations of Administrative Letter No. 1919.

1. If a relationship has been broken and a family is otherwise eligible, re-certify the case for aid immediately.

2. While it is true that the burden of proof rests with the mother, help her establish a broken relationship to the same extent as you would help establish any other eligibility factor.

3. Do not close a case or reject an application without having an interview with the mother to discuss the reason.

4. If you know the current addresses of persons removed because of the substitute father policy, write to them saying that, if they can establish that they have broken their relationships, they may want to reapply for aid.

5. Discontinuance of public assistance because of the substitute father policy or for any other reason does not necessarily mean that a person cannot receive commodities. The mother should be advised to reapply for commodities under the category of "Other." If she meets the requirements, she can receive the commodities.

I will expect your usual cooperation in carrying out these interpretations.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Administrative
Letter No. 1923

July 21, 1964

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: New ADC Policies

Attached is a one-page statement interpreting the new ADC policies. We plan to enclose this statement in some of the replies to letters from or about persons who have been removed from ADC or whose applications have been rejected for ADC because of the new policies.

With kindest regards, I am

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

State of Alabama

Department of Pensions and Security
Montgomery

Interpretation of New ADC Policies of the Department of Pensions and Security.

The Department of Pensions and Security is making further efforts to place responsibility for support of children on their parents and father substitutes rather than on the State and Federal governments. New restrictions governing eligibility of aid to dependent children have

been released to all county departments of pensions and security.

Under one of these new policies, if parents leave children with a relative for their own convenience but retain contact with them, the children cannot receive aid. In other words, unless the children would be eligible in their own home, they will not be eligible in the home of a relative.

Under the second new policy, county departments are directed to consider a man a substitute father and liable for support of all children in a home if, though not married to the mother, he has privileges of a husband. If the mother is expecting a child or has one six months old or under, this is considered enough evidence that the man is a substitute father. No aid will be provided any of the children in such a situation.

Proof must be established under the new policy that relationships are discontinued before aid can be given or restored.

It should be pointed out that under already existing policies children were not eligible for ADC if they lived with two able-bodied parents, and that a parent substitute was considered the same as a parent.

These new policies are not intended to hurt children but to place the burden of support where it belongs.

15:NO:TV
Room 404—50 Seventh Street, N. E.
Atlanta, Georgia 30323

August 31, 1964

Mr. Ruben K. King
Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery, Alabama 36104

Dear Mr. King:

We have reviewed Administrative Letter No. 1919 which amended, effective July 7, 1964, the approved Alabama AFDC plan. This Administrative Letter purports to amend your policies on deprivation of parental support or care, with the specifically stated purpose of restricting the AFDC caseload. This amendment goes far beyond your presently approved plan in that it results in ineligibility of all children living in a home with a mother, if she cohabits with a man who is not her husband, or is illegitimately pregnant, or has given birth to an illegitimate child within the preceding six months, irrespective of whether the man has any family relationship with the mother and the child or children.

This policy raises a serious question with Section 404 (b) of the Social Security Act and State Letter No. 452 by denying aid "with respect to a child because of the conditions in the home in which the child resides". Under the identified Federal law and policy a State may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis of behavior of the mother or other unsuitable conditions in the home so long as the child continues to reside in the home. The provisions of Administrative Letter No. 1919 seem clearly to be out of conformity with such law and policy.

Other provisions of the policy imposing the burden on the mother with respect to proof of identity of the father or his whereabouts appear to be so unreasonable as to bring into question their acceptability under Federal policy. Eligibility may not be conditioned upon requirements which go beyond the parent's ability to meet.

The Regional office is unable to accept Administrative Letter No. 1919 for incorporation into your approved AFDC plan. We would suggest, therefore, that you rescind this letter and reinstate the cases that have been closed under this policy.

Would you please let us hear from you by September 15, 1964, as to the steps you have taken to resolve this situation. We should also like to have a report as to the number of AFDC cases closed under these policies since they have been in effect.

Sincerely yours,

WAVE L. PERRY,
Regional Representative.

WLP:of

State of Alabama,

Department of Pensions and Security,
Montgomery 4, Alabama.

September 1, 1964

Mr. Wave Perry, Regional Representative
Bureau of Family Services
Welfare Administration
Department of Health, Education, and Welfare
50 Seventh Street, N. E., Room 453
Atlanta, Georgia 30323

Dear Mr. Perry:

I am replying to your letter of August 31, 1964 in which you state that Administrative Letter Number 1919

cannot be accepted for incorporation into the Alabama approved AFDC plan.

It appears that you are questioning this policy primarily with respect to State Letter Number 452, which relates to "suitable home" requirements. Administrative Letter Number 1919 was developed to restrict further our interpretation of "continued absence from the home" as a factor of deprivation of parental support and was not related to the suitable home provision. Administrative Letter Number 1919 defines another group of children who are not deprived of parental support by reason of a parent's continued absence from the home. Heretofore we had not comprehensively defined substitute parents.

In view of the above statements, we are asking that you reconsider the policy contained in Administrative Letter Number 1919 in relation to deprivation of parental support rather than suitable home provisions. If you do not understand the position of this agency and would like to have some further clarification, our legal advisor and the director of the bureau of public assistance will be glad to meet with the appropirate staff of the Regional Office to resolve the matter.

We hope that you will decide that our policy conforms with Federal requirements relating to deprivation of parental support. We will look forward to receiving a favorable reply from you.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

15:RO:IV
Room 404—50 Seventh Street, N. E.
Atlanta, Georgia 30323

September 8, 1964

Mr. Ruben K. King
Commissioner
State Department of Pensions
and Security
Administrative Building
64 North Union Street
Montgomery, Alabama 36104

Dear Mr. King:

I have your letter of September 1, 1964 in response to our letter of August 31, 1964, regarding Administrative Letter No. 1919. You question our relating our questions regarding this Administrative Letter to the Federal "suitable home" requirements, indicating that the provisions are intended to revise the provisions of your plan relating to continuing absence of the parent from the home.

While the provisions in the administrative letter purport to restrict further your policies governing deprivation of parental support or care in relation to absence and are in the section of your AFDC plan pertaining to these policies, we still view them as in fact introducing consideration of the behavior of the parent in the home and thus in actuality as imposing a suitable home requirement. The total effect of these provisions appears to result in denial of aid "with respect to a child because of the conditions in the home in which the child resides". As stated in our letter of August 31, the provisions of Administrative Letter No. 1919 seem clearly to be out of conformity with section 404 (b) of the Social Security Act and State Letter No. 452.

Would you please advise us immediately of your decision in this matter. In addition, as we indicated in our letter of August 31, 1964, we should like to have a report as to the number of cases closed on the basis of Administrative Letter 1919, beginning with the month of July 1964.

Sincerely yours,

WAVE L. PERRY,
Regional Representative.

WLP:MB

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

September 11, 1964

Mr. Wave Perry, Regional Representative
Bureau of Family Services
Welfare Administration
Department of Health, Education, and Welfare
50 Seventh Street N. E., Room 453
Atlanta, Georgia 30323

Dear Mr. Perry:

We have given considerable thought to your letters of August 31, 1964 and September 8, 1964 with reference to Administrative Letter Number 1919. In my letter of September 1, 1964, I explained the position of this agency with regard to that Administrative Letter.

As I understand the position of the Department of Health, Education, and Welfare, that agency questions placing responsibility for the support of children on father substitutes as outlined in Administrative Letter 1919. Furthermore, it appears that the Department of

Health, Education, and Welfare believes that aid should be given to a family even though the relationship between a mother and substitute father is unbroken. Administrative Letter 1919 provides that any mother who can prove that the relationship with the substitute father or fathers has been discontinued may receive aid for her dependent children if they are otherwise eligible.

As I have indicated previously, representatives of this Department will be glad to visit the Regional Office to explain further the position of this Department. If you prefer to come to Alabama to discuss this matter with us, we will be very glad to have you. In any event, I think there should be some discussion with this Department before any further action on the aid to dependent children policies is requested. I realize that there is a difference of opinion about these policies, and I am aware of your responsibility to review and to consider carefully policies developed by the states. I am sure that the Federal agency also recognizes the responsibilities of states in this area, I, therefore, am confident that the Federal agency will give Alabama ample opportunity to make its position clear. I would like to hear from you concerning possible dates for a discussion either in your office or in this Department.

Five hundred sixteen cases were closed for the month of July, 1964, because of the substitute father provision in Administrative Letter 1919. We cannot give you the figures for August, as they have not been tabulated. We will forward them to you as soon as they are tabulated.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

October 16, 1964

Mr. Wave Perry, Regional Representative
Bureau of Family Services
Welfare Administration
Department of Health, Education, and Welfare
50 Seventh Street N. E., Room 404
Atlanta, Georgia 30323

Dear Mr. Perry:

I would like to thank you again for planning the conference with Mr. Fred Steininger and other appropriate people in the Washington office. In keeping with our discussion and in line with my concern about the aid to dependent children program, we have drafted another letter relating to the ADC program. The revised letter modifies policies contained in Administrative Letter Number 1919.

I will appreciate your sending copies of the attached letter to the Washington office for their consideration. This draft may be identified by the date, October 16, 1964.

I will look forward to hearing from you about these modified policies.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Administrative
Letter No.

, 1964

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Modifying Administrative Letter No. 1919—Policies in Aid to Dependent Children Program—Effective Immediately

The Federal Department of Health, Education, and Welfare has question about Administrative Letter No. 1919 as written. We are, therefore, setting forth below modified policies. They are related primarily to deprivation of parental support or care.

Substitute Father: A man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, an application will not be approved, or a case will not be continued eligible, unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of dis-

ability under the aid to dependent children program as described in the manual; (2) the substitute father is no longer living in the home or frequently visiting the home for the purpose of cohabiting with the mother or is not cohabiting with her elsewhere; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home. In other words, in (2) and (3), the substitute father would not be acting in the role of husband of the mother and/or assuming parental support of the children.

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 60 days to present her evidence before her application is disapproved or her case closed.

The mother of an illegitimate child applying for ADC must, under oath and in writing, give the name and last known address of the father of the child. These facts will be particularly helpful in applying policies outlined on pages II-30-31 of the Public Assistance Manual. These pages are concerned with Act No. 295, Special Session 1961. If the mother, however, is unable to name the father of an illegitimate child, she must, under oath and in writing, set forth her reasons for not knowing who is the father of her child. In either of the preceding instances, she must present two acceptable reference statements, as previ-

ously described, to establish that the relationship with the "father" is broken.

The counsellor will prepare the necessary affidavit for the mother to sign and have notarized. (It can be notarized by a staff member of the county department.) If she refuses to sign it, she will not be eligible for aid.

Substitute Mother: If a child's natural or adoptive father cohabits with a woman *who lives in his home,* she is considered a substitute mother of all the children in his home. The woman's pregnancy or her having a baby six months or under is prima facie evidence that she is cohabiting with the father in whose home she is living.

When there appears to be a substitute mother *living in the home,* an application will not be approved or a case will not be continued eligible unless the father establishes that one of the following situations exists: he and/or the substitute mother meets the criteria of disability under the aid to dependent children program as described in the manual; or (2) the substitute mother is no longer living in the home.

Evidence showing that the substitute mother has moved out of the father's house includes proof such as: the mother has married another man; or she is in a public institution; or she is living at another address; or a notarized statement by the father and substitute mother that she is no longer living in his home. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the father will be given 60 days in which to present his evidence before his application is disapproved or his case closed.

The Department of Health, Education, and Welfare has asked us to have you write the families who were removed from aid under Administrative Letter No. 1919 or whose applications were rejected under that letter. In keeping with their request, we are mimeographing for your use a form letter indicating the changes in policy. Please ascertain the number of copies you will need to notify these families and order them from this Department in the usual way. I would like to point out that these families affected by Administrative Letter No. 1919 cannot be automatically reinstated or approved.

Since this Administrative Letter incorporates much of the material in Administrative Letter No. 1919, it will take the place of that letter.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING.

15-0

Department of
Health, Education, and Welfare
Washington

12/11/64

Mr. Ruben K. King, Commissioner
State Department of Pensions and Security
Administrative Building
64 Union Street
Montgomery, Alabama

Dear Mr. King:

We have received, through Mr. Perry, your letter of October 16, 1964, transmitting a proposed revision of Administrative Letter No. 1919.

At issue is the extent to which Alabama's plan for AFDC now meets the requirements of section 404(b) of

the Social Security Act and State Letter No. 452, relating to denial of assistance because of the conditions in the home in which a child resides. This proposed revision to Administrative Letter No. 1919 removes some of the questions raised in Mr. Perry's letters of September 9 and 22, 1964, and discussed with you, Mrs. Hitchcock and Miss Bryan during our conference here on October 6 and 7, 1964. We will, therefore, confine our present consideration to the areas in which the questions have not been resolved.

Three conditions are stated in the proposed revision which would result in finding that the children have a "substitute father" and therefore are not deprived of parental support or care. As we understand these conditions all of the children of the applicant/recipient mother in the home would be ineligible if the "substitute father": (1) lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

LJMcDonnell:hg

2

As was made known to you in the letters from Mr. Perry and during our meeting, we view these provisions as establishing a "suitable home" requirement because their effect in the main is to base eligibility of a child for AFDC on the behavior of his mother rather than on the presence in the home of a man whose relationship to the family is like that of a husband and father.

In general, difficult issues are presented regarding the acceptability of State plans which exclude cases from AFDC because of the existence of a "substitute father." For the present, however, we are not questioning State plan provisions which exclude cases on this ground where the "substitute father" is shown to be in fact a member of the family, sharing in its living arrangements, and occupying the role of husband and father.

If the Alabama material were expressed in terms of these criteria, it might generally encompass the type of case that falls under condition (1). Nevertheless, it is not clear that condition (1), as now written, would be limited to cases that may be excluded under acceptable criteria.

Condition (2) covers the case where the man is merely a frequent visitor in the home "for the purpose of cohabiting" with the mother. On its face, it requires a finding that the man is a "substitute father" of the mother's children entirely on the basis of a pattern of moral behavior, namely, the frequency of a relationship that is solely meretricious in nature. It is questionable whether, in such a factual situation, a parental relationship can be even presumed—much less established—that would justify exclusion of the children from the program.

We believe that condition (3), which relates to the case where a man does not live in the home or visit the home and where his relationship with the mother is carried on entirely outside of the home, provides no basis for a finding that the children in the home in fact have a "substitute father." As this condition is related solely to the behavior of the mother and is without regard to any relationship of the man to the children in the home, it is beyond question a suitable home provision, and is thus not in conformity with section 404 (b) of the Social Security Act and State Letter No. 452.

Our questions on the foregoing matters apply not only to the statement of the three conditions but also to related material in subsequent paragraphs of your proposed Administrative Letter.

A problem is also presented by the provisions with respect to the burden imposed on the mother to controvert the finding, required by the proposed conditions, that there is a "substitute parent" of her children. The problem relates to all three conditions, but is particularly acute with respect to condition (3). Despite the clearest evidence that the "substitute father" is a complete stranger to the children and the home in which they live, the mother can disprove that he is their "father" only by discontinuing her "cohabitation" (i. e., we understand, sexual encounters) with him and corroborating this by "acceptable references in a position to know." This accentuates the irrelevance and unacceptability of the proposed basis for excluding cases from assistance. Moreover, we believe that a requirement that a person seeking benefits must prove a negative is not a reasonable one where it imposes a condition that goes beyond the individual's ability to meet. Similarly, a requirement that third persons furnish evidence or take other action may be unfair because an individual cannot force others to act.

We request that you revise the Alabama materials to conform to the provisions of the Federal law and current policy. We are asking Mr. Perry to work with you toward this end.

Sincerely yours,

FRED H. STEININGER,
Director.

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

December 16, 1964.

Mr. Fred H. Steininger, Director
Bureau of Family Services
Welfare Administration
Department of Health, Education, and Welfare
330 Independence Avenue, S. W.
Washington, D. C. 20201.

Your Reference: 15:0

Dear Mr. Steininger:

I am replying to your letter of December 11, 1964, regarding a proposed modification dated October 16, 1964 of Administrative Letter Number 1919. I want to emphasize the following modifications made in the October 16 draft as a result of our conference in Washington:

1. Eligibility can be established if the mother or substitute father is disabled.

2. The proofs are made more reasonable which the mother must present to prove discontinuance of a relationship. For example, the substitute father does not have to be in a distant place.

3. A parent may be given 60 days to present his or her evidence that the relationship has been broken before an application is disapproved or a case is closed.

4. Provision has been made to write each mother whose case was closed or application rejected to in-

form her of the changes in policy. (If she reapplies, her application will be handled under the new rules.)

We agreed in Washington to add a provision that a mother of an illegitimate child applying for aid to dependent children would be required, under oath and in writing, to give the name and last known address of the father of the child. Such a provision was added to the proposed modifications.

I am familiar with Section 404(b) of Title IV of the Social Security Act and State Letter Number 452 concerned with conditions in the home in which a child resides. I still maintain that the policies which we propose do not deny aid because the home is unsuitable. Our basis for denying aid is the fact that there is an able-bodied father or father substitute involved in these situations. I further maintain that he should provide support for the children which are his and those for whom he has accepted some responsibility because of his relationship with the mother.

You apparently have assumed that there is never a father relationship where a mother cohabits with a man outside the home. I cannot agree with such an assumption.

I contend that the modifications in policy contained in the draft of October 16, 1964 are in conformity with Federal law. Furthermore, I do not believe that Federal plan material clearly defines who can be considered a parent and, in my opinion, does not satisfactorily interpret Section 404(b) of Title IV of the Social Security Act. For these reasons, I think you have no basis for questioning our modifications in ADC policy.

I will appreciate your further consideration of the modifications presented in our draft material of October 16,

1964. If you cannot accept these modifications, I shall wish to request an Administrative Hearing.

Cordially Yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

cc: Mr. Wave Perry, Regional Representative
Bureau of Family Services
Welfare Administration
Department of Health, Education, and Welfare
50 Seventh Street N. E., Room 453
Atlanta, Georgia 30323.

PLAINTIFF'S EXHIBIT 2.

Manual Revision No. 3, Part I, Effective March 1, 1949

(c) *Need.* The child must be needy and must not have income or resources from any source adequate to provide a standard of living compatible with decency and health. (See Deprivation of Parental Support, also Chapter III—Determination of Need and Public Assistance Grants.)

(d) *Deprivation of Parental Support.* Under Alabama Law a parent refers to the natural or adoptive parent of a child. The child must have been deprived of parental support or care by reason of the death, continued absence from home, or the physical or mental incapacity of one or both parents. Under the State and Federal Laws, deprivation of parental support exists only in regard to the above reasons. If a child lives in the home of two able-bodied parents, aid to dependent children assistance cannot be granted under the present laws even though there may be no source of income and the child may be in need. This also refers to a child born out of wedlock, if paternity is established and the father

is living in the home with the mother and the child. In such a case, a statement by the father (to the worker of the department of public welfare) in which he accepts paternity will be acceptable proof of paternity insofar as the agency is concerned.

A child, even though deprived of one parent, may not be considered eligible for aid if he has another able-bodied parent in the home who can make adequate plans for the child and work, but who refuses to do so. Since earnings from employment are a normal means of support for those able to work, an unemployed able-bodied parent who can make suitable plans for the child shall be expected to work if suitable work is available. In deciding what constitutes adequate care for a child, the worker shall be guided by basic principles of child welfare. A competent adult, willing and capable of giving the child proper physical care and supervision, must be available. With school age children particularly, it seems likely that a parent could make suitable arrangements to work. Adequate counseling service must be made available to the parents in order for them and the agency to reach a wise decision as to the advisability of the parents' working. When the parent is employed and the wages are not sufficient to meet the family's needs and do not equal or exceed the income and/or resource limitation, and other eligibility requirements are met, aid to dependent children may be given.

When the mother of a child marries again and there is a stepfather in the home, he shall be expected to assume support of the child. However, if the stepfather refuses to support the child, or is financially unable to do so, aid to dependent children shall not be denied even though the stepfather is able-bodied. If the stepfather is able-bodied and the child's mother is able-bodied, neither the stepfather's needs nor those of the mother can be in-

cluded in the budget, as the stepfather is expected to assume responsibility for the support of himself and his wife. If the mother is disabled and in need, her needs should be included in the budget. Likewise, if the stepfather is disabled and in need, his needs should be included in the budget.

(1) *Death.* If a father or mother is dead, the death shall be established by the county department on the basis of factual data obtained from the applicant or from documents, such as a death certificate, physician's record, mortuary, cemetery or insurance record, newspaper items, family Bibles, diaries or letters, or from references.

Section V.

Determination of Other Factors Relating Particularly to Aid to Dependent Children.

Deprivation of Parental Support.

Title IV, Section 406 (a), of the Federal Social Security Act and Title 49, Section 17 (14), Code of Alabama 1940, 1951 Cumulative Pocket Part (stating that a dependent child shall be defined in accordance with the Federal Social Security Act), provide that a child must have been deprived of parental support or care by reason of:

1. Death [of one or both parents];

2. Continued absence from the home [of one or both parents]; or

3. Physical or mental incapacity [of one or both parents].

Under Alabama law, a parent refers to the natural or adoptive parent of a child.

Child Ineligible if in Home of Two Able-Bodied Parents—If a child lives in the home of two able-bodied parents, aid to dependent children cannot be granted even though there may be no source of income. In this particular situation, the definition of "parent" will encompass more than the legal definition and will be as follows:

1. The natural or adoptive parent.
2. The stepfather or stepmother.
3. The man or woman who lives in the home and maintains a marital relationship with a child's natural or adoptive parent, even though unmarried to him (her).

Any person mentioned above will be considered as the parent of all the children in the home whether the children are really his (hers) or not. This is the only situation in which a stepfather or stepmother or a man or a woman who live together, even though unmarried, will be considered as a "parent" of children who are not actually his (her) own. In all other instances, the legal definition of parent will be used.

Note: For the above policy to be effective, at least one of the parents must be the child's natural or adoptive parent.

(Refer to policies concerning continued absence from the home for criteria to establish whether a parent (natural or adoptive) is considered living in the home.)

Employment Requirement—A child, even though deprived of one parent, may not be considered eligible for aid if he has another able-bodied parent in the home who can make adequate plans for the child and work, but who refuses to do so.

The parent shall be expected to work if the following conditions are met:

1. There is a competent person to provide care for the child while the parent works.

2. Work in keeping with the parent's education and experience and at average community wages paid for such work is available within reasonable proximity of the home.

place emphasis, therefore, upon the parent's legal responsibility for support when eligibility is being determined.

Legal parents include:

1. Father and mother of a child born of a valid marriage.

2. Legally adoptive father or mother.

3. Father where paternity has been legally established.

4. Mother of a child born out of wedlock.

The legal definition of a parent is always used when support is being sought through court. When legal action is not involved, the State Department has adopted a broad definition of parent which includes not only the legal parent but also certain other persons.

It is a parent's right to know that his children are in need and that application for aid is being made. Whether children live with their parent(s) or with other relatives, establish that the parent(s) is without sufficient income and resources to provide for his children. The fact that parents are divorced or legally separated and custody granted to one parent does not necessarily release the other from his responsibility for his children.

Broad Definition of Parent—The State Department defines a "parent" as follows:

1. The legal parent (see definition above).

2. The stepfather or stepmother who *lives in the home.*

3. The man or woman who *lives in the home* and maintains a marital relationship with a child's natural or adoptive parent, even though unmarried to him (her).

4. The man, married or unmarried, who *lives apart* from the mother, but who frequents the home and continues to have the privileges of a husband. (Responsible only for his own children.)

Child Ineligible if in Home of Two Able-Bodied Parents—If children live in the home of two able-bodied parents (1, 2, and 3 of broad definition), ADC cannot be given even though there may be no source of income. Consider any parent mentioned in 1, 2, and 3 above the parent of all the children in the home, whether they are really his (hers) or not.

If the father of one or more of the children *lives apart* from the mother, but frequents the home and continues to have the privileges of a husband, his own children cannot receive ADC. (See 4 under "Broad Definition of Parent".)

[Obs. by Rev. Effec. 4-1-61 (Sub 105).]

If the father, even though disabled, has full-time remunerative employment, aid cannot be given. (See discussion of full-time remunerative employment for a disabled father in section on "Physical or Mental Incapacity".)

For the policies under this heading to be effective, at least one of the parents must be the child's legal parent.

Death.

Consider a child deprived of parental support by reason of the father's death if:

1. There is no able-bodied stepfather or other father substitute in the home. (A father substitute is defined as a man who lives in the home and maintains a marital relationship with the mother, whether married or unmarried to her.); and

2. It is established that the natural or adoptive mother is unable to meet the child's needs according to agency standards. (See policy, "Employment of Parents and Children", later in this section.)

Consider a child deprived of parental care by reason of the mother's death if the natural or adoptive father with whom the child lives is unable to meet the child's needs according to agency standards, *unless*:

1. There is an able-bodied mother substitute in the home. A mother substitute is: (a) a stepmother; (b) a woman who lives in the home and maintains a marital relationship with the father, even though unmarried to him; (c) a sister or aunt 18 or over; (d) a grandmother or other close female relative who lives in the home and gives parental care. (Use definition of relative as given in section, "Living in Home of Relative".)

2. There is no need for a mother substitute. This might occur in families where there are older children (16-18) only or where the father's work is at home.

Establish factually the death of a parent through such sources as:

1. Death certificate.

2. Physician's record.

3. Mortuary, cemetery, or insurance records.
4. Family Bible.
5. Diaries or letters.
6. References.

[Obs. by Rev. Effec. 4-1-61 (Sub 105), Tr. 3-21-61 (Rev. 18), Adm. L. 1441.]

Revision No. 18. Effective April 1, 1961.

[Obs by rev effec 12-1-62, Tr. 12-5-62 (Sub 163) Adm Ltr. 163.]

1a. Manual, Part I II-25

Child Ineligible if in Home of Two Able-Bodied Parents—If children live in the home of two able-bodied parents, ADC cannot be given even though there may be no source of income. By regulation, a stepfather or stepmother is considered a parent under this policy. In addition, a man or woman who *lives in the home* and maintains a marital relationship with a child's natural or adoptive parent, even though unmarried to him (her) is considered a parent of all the children in the home.

If the father, even though disabled, has full-time remunerative employment, aid cannot be given. (See discussion of full-time remunerative employment for a disabled father under "Physical or Mental Incapacity.")

For the policies under this heading to be effective, at least one of the parents must be the child's legal parent.

Death

Consider a child deprived of parental support by reason of the father's death if:

1. There is no able-bodied stepfather or other able-bodied father substitute in the home. (A father substitute is defined as a man who lives in the home and

maintains a marital relationship with the mother, though unmarried to her.); and

2. The natural or adoptive mother is unable to meet the child's needs according to agency standards.

Consider a child deprived of parental care by reason of the mother's death if the legal father with whom the child lives is unable to meet the child's needs according to agency standards, *unless*:

1. There is an able-bodied stepmother or other able-bodied mother substitute in the home. (A mother substitute is defined as a woman who lives in the home and maintains a marital relationship with the father, though unmarried to him.)

2. There is no need for a mother substitute. This might occur in families where there are older children (16-18) only or where the father's work is at home.

Establish factually the death of a parent through such sources as:

1. Death certificate.
2. Physician's record.
3. Mortuary, cemetery, or insurance records.
4. Family Bible.
5. Diaries or letters.
6. References.

[Obs by rev effec 12-1-62, Tr 12-5-62 (Sub 163) Adm Ltr 1660.]

Physical or Mental Incapacity

Consider a child deprived of parental support or care because of a parent's incapacity under one or both of the following conditions:

1. The *father*, normally the breadwinner, is totally or partially disabled for any full-time remunerative employment within his competence and which exists within the community. Even though he may work the full number of hours or days required by a particular job, his incapacity limits his performance and earnings as compared with those of the average worker on the same type job. (*Exception*: When the father is disabled and farm work done by the family unit is comparable to work operations of similar family units in the community, do not consider the children deprived of parental support.) Father in this instance applies to the legal father, stepfather, or other father substitute living in the home. (Refer to suitable home policies.)

The inability to provide must be directly related to the physical or mental incapacity and not to unemployment resulting from other causes. Sometimes a medical statement may describe a father as disabled but he is, nevertheless, able to work at some full-time employment of a type which exists within the community. In such a case, his children cannot be considered eligible on the basis of his disability, even though all jobs which he can do in the community have already been filled.

2. The *mother*, normally the one who gives care, is incapacitated and is unable to care for the children, or has high medical expenses.

Old age within itself does not constitute incapacity and the fact that a person is receiving OAP does not automatically qualify his children for ADC. The incapacity must be as specific in an old person as it is in a person of any other age.

Continued Absence from the Home

Establish the fact that absence exists. Continued absence from the home refers to a legal parent:

1. Who is divorced.

2. Who is separated.

3. Who is in a correctional or penal institution.

4. Who is hospitalized past a temporary period for treatment of physical or mental disease.

5. Who has without lawful excuse deserted, willfully neglected, or refused to provide for the support of children under 18 years of age.

Some methods of verifying continued absence from the home are:

[Inc 4-6-61 by R. O.]

Obs by rev effec 12-1-62, Tr 12-5-62 (Sub 163) Adm Ltr 1660.]

1. Ask the remaining parent how long the absent parent has been out of the home, how he may be located, and what efforts have been made to locate him.

2. Secure verification from such sources as other relatives, previous employers, landlords, neighbors, lodges.

Do not consider a child deprived of parental support or care by reason of the parent's continued absence from the home if:

1. The parent has not deserted the family but is only working in another locality or has left home to

seek work in another locality and keeps in touch with the family.

2. There is a mother substitute or no need for a mother substitute in cases where the absent parent is the mother.

3. There is an able-bodied stepfather or other father substitute living in the home.

4. The able-bodied legal father or stepfather continues to be in and out of the home frequently and his absence, therefore, cannot be verified. The fact that he lives at another address or supports through a court order does not necessarily establish continued absence from the home. If he continues to go in and out of the home and he and the mother live as man and wife, he cannot be considered as being absent from the home. To establish continued absence from the home, there must be clear evidence that the mother and father have a completely broken marital relationship.

The above policy will apply to the able-bodied father not married to the mother if: (a) he has admitted paternity to the worker; (b) paternity has been legally established; or (c) he denies paternity but the preponderance of evidence indicates that he is the father and he continues to be in and out of the home frequently. He will, however, be held responsible for the support of his children only. (Refer to suitable home policies.)

Interviewing Absent Parent (Legal or Alleged)

If the legal or alleged parent is within the community or within Alabama, a representative from the county department should interview him. Determine, if possible, his ability and willingness to contribute to his child's

support. If this information cannot be secured from him, secure it from some other source. If he is out of the State and his address is known, write a social agency where he lives concerning support for his children. When out-of-state agencies do not render this service, write directly to the parent.

[Inc 4-6-61 by R. O.]

PLAINTIFF'S EXHIBIT 3.

15:RO:IV
Room 404—50 Seventh Street, N. E.
Atlanta, Georgia 30323

July 25, 1963

Mr. Ruben K. King
Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery 4, Alabama

Dear Mr. King:

With your letter of July 18, 1963 you forwarded copies of H. B. 786 which requires that the mother of an illegitimate child disclose the name of the father of the child and institute appropriate judicial proceedings to establish paternity and obtain support in order to qualify for AFDC payments.

The acceptability of such a law would depend upon its implementation. It would be necessary to provide that assistance will be denied only when the mother refuses to name the parent or gives the name of the parent but refuses to proceed against him. If the mother does not, in fact, know who is the father of the child, the imple-

menting material would need to provide that the child would be found eligible for assistance.

We believe that the phrase "or the person whom the preponderance of the evidence indicates is the father" would need to be rather fully implemented since such a determination is the responsibility of the courts rather than your agency.

Sincerely yours,

WAVE L. PERRY,
Regional Representative.

WLP:of

15:RO:IV
Room 404—50 Seventh Street, N. E.
Atlanta 23, Georgia

June 12, 1963

Mr. Ruben K. King
Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery 4, Alabama

Dear Mr. King:

The Alabama House Bill 343 and Senate Bill 141 forwarded to us by your letter of May 27, 1963 have been discussed with the Office of General Counsel.

We assume your reference to the Social Security Act Amendments of 1962 in connection with the suitable home provision is to Section 406b, which states that ADC may be denied in such circumstances if "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child."

These bills appear to deny assistance to a needy child because he is found living in a home considered to be unsuitable. Since the proposed legislation provides for denial of assistance under the AFDC program while the child remains in the home without providing for other "adequate care and assistance for such child," it cannot be considered to be consistent with the Social Security Act.

In addition, the questions previously raised in our letter of April 23, 1959 and our telegram of May 19, 1959, concerning identical bills, are still pertinent.

Sincerely yours,

WAVE L. PERRY,
Regional Representative.

FPG:bd

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

May 28, 1963

Mr. Wave Perry, Regional Representative
Bureau of Family Services
Social Security Administration
Department of Health, Education, and Welfare
50 Seventh Street, N. E.
Atlanta 23, Georgia

RE: H. B. 330—Regulating further the payment of aid to dependent children.

Dear Mr. Perry:

Attached are two copies of the above named bill which was introduced in the House on Friday, May 24th. The

emphasized sections are the only changes from the present Code section.

It appears to us that this bill attempts to do the same thing that is provided in H. B. 343 and S. B. 141 sent you under separate cover.

We would appreciate it if you would advise us if the attached bill meets Federal requirements and whether there would be any question of continued receipt of Federal funds for aid to dependent children if this legislation is enacted.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

HB 330

By Mr. Daniel

R1 5-24/63

RFD Public Welfare

A Bill
to Be Entitled
an Act

To amend further Act No. 703, H. 544, approved September 5, 1951 (Acts of Alabama, 1951, p. 1211), which created state and county departments of public welfare.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 13 of the act approved September 5, 1951 (Act No. 703, H. 544, Acts of Alabama, 1951, p. 1211), which created state and county departments of public welfare, is hereby amended to read as follows:

"Section 13. Public assistance; to whom payable.—Public assistance shall be payable under this Act to or

on behalf of any person who is a needy blind person within the requirements of this Act, or is a needy person over the age of 65 within the requirements of this Act, or is a dependent child within the requirements of this Act, or who is permanently and totally disabled within the requirements of this Act. No public assistance shall be payable under this Act to or on behalf of any person who is an inmate of a public institution, except that such assistance may be payable to or on behalf of persons who are patients in public institutions where such payments are matchable under provisions of the Federal Social Security Act; provided further that the state department shall not grant assistance to inmates of any institution, whether public or private, unless that institution conforms to requirements under the provisions of the Federal Social Security Act and applicable statutes of Alabama.

"A. Blind assistance shall be payable under this Act to or on behalf of any person who shall comply with the other requirements of this Act and who: (a) is blind according to the definition of blindness established by the state department; (b) has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; provided, however, that any earned income required by the Federal Social Security Act to be disregarded is hereby excepted; (c) has resided in the state for at least one year immediately preceding the filing of application for assistance; (d) is not receiving any other type of public assistance for which federal matching is available; (e) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefits of this Act; and (f) no application for blind assistance shall be approved until the applicant has been examined by a duly licensed opthalmologist or a licensed physician skilled in the diseases of the eye or a licensed

optometrist, whichever the individual may select. The examiner shall certify to the county department in writing the results of the examination upon forms prescribed by the state department; and (g) shall not during the period of receiving assistance publicly solicit alms. The term 'publicly solicit alms' shall be construed to mean either the earing, carrying, or exhibiting signs denoting blindness, for the securing of alms, or the carrying of receptacles for the purpose of securing alms or the doing of same by proxy; or the stationary or house-to-house begging or any other means of securing alms.

"B. Old age assistance shall be payable under this Act to or on behalf of any needy person who has attained the age of 65 years, who shall comply with the other requirements of this Act and who: (a) Has resided in the state for at least one year immediately preceding the filing of his application for old age assistance; (b) has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; (c) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefits of this Act; and (d) is not receiving any other type of public assistance for which federal matching is available.

"C. Aid to dependent children shall be payable under this Act on behalf of any needy child who is a dependent child as defined in the Federal Social Security Act or amendments thereto who shall comply with the applicable requirements of this Act, *and who is living in a suitable family home meeting the standards of care, health, and morals, fixed by the laws of this state and the rules and regulations of the state department,* and who: (a) Has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; (b) who meets any one of the following resi-

dence requirements—(1) has resided within the state for one year immediately preceding the application for aid, or (2) was born within the state within one year immediately preceding the application for aid, or whose parent or other near relative (as defined by the Federal Social Security Act) with whom the child is living has resided in the state for one year immediately preceding the birth of said child; (c) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefit of this Act; and (d) is not receiving any other type of public assistance for which federal matching is available. Any person having knowledge that any child is dependent and in need and if the interest of the public requires that such child be granted aid may bring such fact to the attention of the county department in the county where the child resides. *It is provided, however, that no assistance shall be paid on behalf of a person living with his mother when said mother has had an illegitimate child after receiving aid under this Act and after the effective date of this Act unless and until satisfactory proof has been presented to the county board showing that the mother has ceased her illicit relationships and is maintaining a suitable family home for the children.*

"D. Aid to the permanently and totally disabled shall be payable under this Act to or on behalf of any needy person 18 years of age or older who shall comply with the other requirements of this Act and who (a) is permanently and totally disabled according to the definition of permanent and total disability established by the state department and whose needy condition is primarily due to these limitations so that he is unable to provide himself with the necessities of life; (b) has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; (c) has resided in the state for at least one year im-

mediately preceding the filing of application for assistance; (d) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefits of this Act; and (e) is not receiving any other type of public assistance for which federal matching is available."

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

(Copy.)

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

May 27, 1963

Mr. Wave Perry, Regional Representative
Bureau of Family Services
Social Security Administration
Department of Health, Education, and Welfare
50 Seventh Street, N. E.
Atlanta 23, Georgia

Re: H. B. 343—Regulating further the payment of
S. B. 141—aid to dependent children.

Dear Mr. Perry:

Attached are two copies of the above named bill which was introduced simultaneously in the House and Senate on Friday, May 24th. This bill is identical with H. B. 23 and S. B. 79 of the 1959 Legislature and H. B. 893 of the

1957 Legislature. We transmitted what was later to be H. B. 23 and S. B. 79 to you on April 8 and you wrote us on April 23, 1959. Following that you had telephone conversations and correspondence about revising this legislation and you wrote us on May 1, 1959, quoting a telegram from your central office. Again, there was further conversation and your wrote us again on May 13, 1959, and wired us on May 19, 1959. On June 19, 1959, you wrote us on further proposed amendments.

Since our previous correspondence there has been an amendment to the Social Security Act regarding this matter. We would appreciate it if you would advise us if the attached bill meets Federal requirements and whether there would be any question of continued receipt of Federal funds for aid to dependent children if this legislation is enacted.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

HB 343

By Mr. Salter

R1 5/24/63

RFD Public Welfare

A Bill
to Be Entitled
an Act

Regulating further the payment of aid to dependent children.

Be It Enacted by the Legislature of Alabama:

Section 1. Aid to dependent children shall be granted only on behalf of a dependent child who is living in a

"suitable family home," as the term is defined in this Act.

Section 2. As used in this Act, the term "suitable family home" means a family home which, in accordance with the rules and regulations of the state department of pensions and security, provides a stable environment for the child or children residing therein. A determination of a suitable home shall include the pattern of living of the parent or other relative with whom the child resides, whether the parent or relative is promiscuous, has casual relationships either in or outside the home, has continued to have illegitimate children, and has otherwise failed to demonstrate an intent to establish a stable home.

Section 3. No person who is living with his or her mother, and whose mother has had an illegitimate child after receiving a check from any county department of pensions and security, shall receive any assistance under the program for aid to dependent children, unless and until proof satisfactory to the county board of pensions and security has been presented showing that the mother has ceased illicit relationships and is maintaining a suitable family home for the children.

Section 4. The state department of pensions and security shall promulgate and adopt such rules and regulations as may be necessary to carry out the intent and purpose of this Act.

Section 5. Except as otherwise provided herein, this Act shall not be construed as repealing any of the laws of this State governing the payment of aid to dependent children, but shall be deemed to be supplemental thereto.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

(copy)

DHEW—Social Security Administration
Public Assistance 15:RO:IV
HW-PA

Typed: 10:30 AM
June 7, 1961
Atlanta, Georgia

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
Administration Building
64 N. Union Street
Montgomery 4, Alabama

Since HB 613 Appears to Contemplate Denial of Assistance to the Children Who Are Permitted to Remain in Their Homes After a Finding That the Home Is Unsuitable It Is Inconsistent With Title IV of Social Security Act as Amended by P. L. 87-31. Furthermore, Finding of Unsuitability Based Solely on Birth Status of Child Is Also Inconsistent With Title IV. Our Comments on HB 23 (1959 Legislature) Are Also Applicable.

WAVE L. PERRY,
Regional Representative,
DHEW.

FPGodwin/p

Cleared with Carl Harper

15:RO:IV
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

September 23, 1959

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery 4, Alabama

Re: Suitable Home Provision in
Aid to Dependent Children

Dear Mr. Prestwood:

Your letter of September 22, 1959 addresses itself to the question of the implementation of Section 3 of House Bill 23. You have previously received Miss Godwin's letter of September 21, 1959 raising certain questions about the proposed policy material submitted to this office with your letter of August 17, 1959.

While our position as stated in the paragraph numbered one (1) on page 1 of Miss Godwin's letter of September 21, 1959 remains unchanged, we believe it is possible to reconcile the views there stated with the interpretation set out as the second alternative in your letter of September 22, 1959, beginning with the third paragraph on page 2, the phrase reading "Another permissible interpretation", et seq. by virtue of the proposed changes in plan material as tentatively agreed to by Miss Bryan and Mr. Cage of your staff.

The substance of the agreement reached in our discussions today with Miss Bryan and Mr. Cage we believe can be summarized as follows:

House Bill 23 imposing a suitable home eligibility requirement in the ADC program will not conflict with the

requirements of the Federal Social Security Act if interpreted to mean that the suitability or nonsuitability of the home will be determined on the basis of the current situation in the home at the time the eligibility determination is made. The recent birth of an illegitimate child or an illegitimate pregnancy may be considered as some evidence (or, if you please, prima facie evidence) or as giving rise to an inference or as raising a question as to the moral environment in the home, the suitability of which is questioned.

As we understand your proposed procedure, when agency has knowledge of the illegitimate pregnancy or upon the birth of an illegitimate child into a family (which has previously received assistance, such birth occurring after the effective date of H. B. 23) assistance in such a case will be suspended or withheld until a current evaluation of the evidence is made on the basis of all of the factors bearing on the question of suitability, and in doing this, a fact of an illegitimate birth and the immoral action which occasioned such incident may be considered for such probative value as it may have with respect to the current condition of suitability or nonsuitability of the home environment. When such final determination is made if the home is found to be unsuitable on the basis of all of the evidence assembled the case will be closed. If, notwithstanding the question, or inference raised by the prior birth of an illegitimate child, the home, when currently evaluated, is found to be suitable, the checks withheld or suspended, will be released to the eligible recipient to the extent permitted by regulations of this Department.

Although in the above paragraph we have referred only to action on cases receiving an assistance payment, after the effective date of the Act, we understand that it is your intent to apply the same criteria for determining suitability of home and same procedures for approval of

assistance payments to both applicants and recipients. The recent birth of an illegitimate child or an illegitimate pregnancy present at time of application will be considered as some evidence of immoral environment and the decision on suitability of the home will be based on an evaluation of the current situation.

Our principal objection concerning the material submitted with your letter of August 17, 1959 insofar as it relates to the question discussed above was that such policy material appeared to equate the birth of an illegitimate child with an absolute finding of unsuitability of home resulting in an automatic final termination of assistance. This, as we point out in Miss Godwin's letter of September 21, 1959 would not be an acceptable interpretation. On the other hand if the event of the birth of an illegitimate child is treated only as evidence of the unsuitability of the home and aid is withheld until a determination on the basis of current facts and circumstances is made as to suitability, we believe such latter interpretation would not be inconsistent with the requirements of the Federal Act.

You recognize, of course, that we can not give you a final approval on the plan material until the same is submitted in final form. We believe, however, that after our discussions today with Miss Bryan and Mr. Cage that the revisions agreed upon will substantially resolve the questions raised in Miss Godwin's letter of September 21, 1959.

Sincerely yours,

F. PAULINE GODWIN,
Acting Regional Representative,
CARL H. HARPER,
Regional Attorney.

CHH:of

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

September 22, 1959.

Miss F. Pauline Godwin,
Acting Regional Representative
Mr. Carl Harper, Regional Attorney
Social Security Administration
Department of Health, Education and Welfare
Room 164—50 Seventh Street, Northeast
Atlanta 23, Georgia

Re: Suitable Home Provision in
Aid to Dependent Children

Dear Miss Godwin and Mr. Harper:

In accordance with our telephone conversation today, I am pleased to outline our understanding of the effect of Section 3 of House Bill 23, now pending in the Alabama Legislature, affecting Aid to Dependent Children.

Section 3 of the House Bill 23 reads as follows:

> "After receipt of a check from any county department of pensions and security and after the effective date of this Act, the birth of an illegitimate child to the mother or other relative with whom the child is residing shall be prima facie evidence that the home is not a suitable family home and no assistance under the aid to dependent children program shall be paid unless and until proof satisfactory to the county board of pensions and security has been presented showing that the mother or other relative with whom the child is residing is maintaining a suitable family home for the children."

This agency interprets Section 3 to provide that the birth of an illegitimate child to the mother or other relative with whom a child is residing shall be prima facie

evidence of moral misconduct on the part of the mother or of the other relative. Such moral misconduct as evidenced by the birth of an illegitimate child is prima facie evidence that the mother or or other relative is not maintaining a suitable family home for such child within the requirements of Section 1 of House Bill 23. Since a suitable family home is not being maintained, the law provides that aid to dependent children shall not be paid to such mother or other relative unless and until satisfactory proof has been presented to the county board of pensions and security refuting the presumption of an unsuitable home and showing that the children are presently residing in a suitable family home.

In implementing this requirement, the agency contemplates that when the fact of the birth of an illegitimate child comes to the attention of the county department either on application, annual review, or otherwise the worker shall proceed to make a current investigation of the home and a verification of the birth of such illegitimate child. Upon the verification of the moral misconduct of the mother or other relative as evidence by the birth of the illegitimate child, the county department would proceed immediately to close the case and to advise the mother or other relative of the fact of such closure. The notice advising of the closure of the case would further advise the mother or other relative of her rights to re-apply at any time for ADC and of her right to present at any time evidence which would tend to show that the home is now suitable for the children. We contemplate further that mannal material will provide that the worker will render assistance, when requested, in acquiring new evidence as to the suitability of the home.

This procedure is similar to that used when a worker's attention is brought to the fact that a person is not eligible for some form of public assistance. If the worker is informed, for example, that a recipient of an old age pen-

sion is not 65 years of age and such information is verified through reliable sources, the recipient is notified of such finding and the case closed. The person may re-apply at any time and refute the evidence in possession of the county department.

Another permissible interpretation of Section 3 of H. B. 23 would permit the worker to issue a hold order on a check instead of closing a case when the current investigation reveals facts strongly indicating that the home is suitable in spite of the moral misconduct of the mother as evidenced by the birth of an illegitimate child. When the investigation reveals that the home is unsuitable, the case, of course, would be closed, subject to consideration upon re-application. The ADC mother or other relative would be advised of the fact of the determination of the unsuitability of her home and the issuance of the hold order, together with the fact of her right to submit evidence as to the present suitability of her home. The mother or other relative would further be advised that unless she notifies the county department within 30 days of her desire to present evidence of the suitability of her home, her case will be closed. Such closure would not, of course, affect her right to reapply for public assistance at any time.

This procedure follows, in substance, our present procedures for handling cases wherein there is substantial doubt as to presence of some factor of eligibility. For example, in the ADC program, if a worker on annual review has substantial reason to suspect that the children on whose behalf ADC is paid are not or have not been residing in the home, the county department issues a hold order on checks made payable to the grantee relative until the presence of the children in the home can be substantiated by the parent or grantee relative.

Although the proposed bill refers to recipients only, we would apply substantially the same policies to appli-

cants. Also, we will consider an illegitimate pregnancy or the birth of an illegitimate child within six months preceding application or review or other investigation as evidence of the mother's moral misconduct and inability to maintain a suitable family home.

We would appreciate it if you would review the above material and submit same to your Washington office and advise specifically whether or not such procedures would be in conformity with the Social Security Act and if such procedures, if adopted, would in any way jeopardize Federal matching on public assistance payments made by this department. If the above procedures are not in conformity with the Social Security Act or would jeopardize the receipt of Federal matching by the department, we would appreciate particular delineation in the procedures which are not in conformity of the Social Security Act.

Sincerely yours,

/s/ ALVIN T. PRESTWOOD,
ALVIN T. PRESTWOOD,
Commissioner.

15:RO:IV
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

September 21, 1959

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery 4, Alabama

Dear Mr. Prestwood:

We have reviewed the draft of proposed policy material on suitability of the home in the Aid to Dependent Chil-

dren program submitted with your letter of August 17, 1959. This material has been reviewed also, by our Washington office and the Office of the General Counsel.

Your staff has done a very nice job with the difficult task of developing policy to implement House Bill 23. It is a well organized statement.

We have the following comments:

1. The last sentence on page 1 of the draft states that one instance of illegitimate pregnancy or birth "*will*" make the home unsuitable. This statement seems inconsistent with the balance of the policy material, but if it expresses the intent and implementation of Section 3 of the law, it would equate a suitable home with the birth of an illegitimate child; and would not be acceptable. If the statement is revised to state illegitimate pregnancy or birth is *evidence* of immoral environment but that decision as to suitability is to be based on current evaluation of home, the question would be removed.

2. If the six months period referred to on page 4 under County Board is intended as a mandatory waiting period before "reapplication can be approved", it cannot be considered acceptable. The imposition of a waiting period would not permit evaluation of the current situation and a decision based on that evaluation. Thus, the provision so interpreted could not be found to be a reasonable condition for a suitable home policy.

3. Likewise, the question of current evaluation of the home applies to 4-e on page 3. We understand this section to mean that the home is unsuitable if the illegitimate child is less than six months old at the time of application or review. We do not question that the recent birth of an illegitimate child is a factor to be considered in determining suitability. However, using the birth of a child within six months as the sole criterion of suit-

ability of the home raises the same question as referred to in comment one (1) above.

4. It will be necessary to clarify the first paragraph, page 5, to assure that even though the child is illegitimate, if a mother is married and living with her husband, assistance may not be denied the child on the basis of illegitimate birth.

5. The sentence on page 4 under the heading "County Board: Under no circumstances, however, can the department approve these cases without favorable Board action" should be clarified to specifically indicate that it relates to the county department rather than to the State Department and that it is a procedural provision rather than a substitute provision that implies that the State Department is relinquishing its authority to review and supervise local administration and to make decisions when the action taken by the local board is contrary to State policy.

6. The provision in item 4 on page 4a that the County Board may delay decisions on applications should be stated in such a way that it is clear that the deferment is only until its next meeting in order to obtain additional information on which to base a decision as to the suitability of the home, which we believe is your intent.

We shall be glad to discuss these comments with you.

Sincerely yours,

F. PAULINE GODWIN,
Acting Regional Representative.

PG:of

15:RO:IV
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

June 12, 1959

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery 4, Alabama

Dear Mr. Prestwood:

You have previously requested our comments on House Bill 23 now pending in the Alabama Legislature governing the payment of ADC and establishing the new "suitable family home" eligibility requirement.

It is now proposed to amend H. B. 23 by inserting the phrase "and after the effective date of this Act" between the word security and the phrase "the birth" in line 2 of Section 3 of said bill so that the procedures specified in Section 3 of the bill will be followed only in cases in which the illegitimate birth of a child in an assistance family occurs after the effective date of the bill.

On the assumption that the same eligibility criteria with respect to the suitable family home eligibility requirement is employed in all cases, including both those in which an illegitimate birth occurs before the effective date of the Act, as well as those in which the illegitimate birth occurs after the effective date of the Act, we do not believe that this procedural difference will result in any conflict with Federal standards under the Social Security Act.

You understand, of course, that a final decision as to the consistency of the bill with Federal requirements can

not be made until the necessary interpretations and implementing plan material, as called for in the Act itself are submitted as amendment to your State plan.

Sincerely yours,
WAVE L. PERRY
Regional Representative

CHH:of

15:RO:IV
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

May 13, 1959

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
Administration Building
64 N. Union Street
Montgomery 4, Alabama

Dear Mr. Prestwood:

This will confirm our telephone conversation regarding the implementation of the "suitable home" amendment of your ADC law that you submitted to us with your letter of April 28, 1959 and on which we commented in our letter of May 1, 1959.

In our conversation we discussed the meaning of the law in relation to two possible interpretations, either one of which would avoid the question raised in our letter of May 1, 1959. Under one interpretation any home would be considered unsuitable in which the marital relationship is not legal without regard to the birth of a child. Under the other interpretation a home might be found suitable on the basis that the relationship is stable even though an illegitimate child is born in the home. Under this

latter interpretation a home would be unsuitable if the relationship is not stable as evidenced by promiscuous behavior.

It is our understanding that you believe the law would not permit the granting of assistance in a home where an illegal marital relationship exists. This is, of course, the first interpretation referred to above and is the more restrictive of the two interpretations.

If you wish we shall be glad to work with you and your staff in developing implementing plan material on this part of your definition of suitable home, as well as other parts of the definition relating to neglect, abuse, exploitation, promiscuity and any other factors that make a home unsuitable.

Sincerely yours,
WAVE L. PERRY
Regional Representative

WLP:of

15:RO:IV
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

May 1, 1959

Air Mail

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
64 N. Union Street
Montgomery 4, Alabama

Dear Mr. Prestwood:

In accordance with the promise made in Mr. Carl Harper's letter of April 29, 1959 we have transmitted to the Central office the revised draft of the ADC bill you

sent to this office with your letter of April 28, 1959. We have just received the following telegram of comments from our Central office on the revised draft of this bill.

> "Although proposal has been revised in accordance with our suggestions in memorandum of April 21, 1959 we are obliged to question Section 3 again. The question is whether in the case of a child born to an unmarried couple after ADC has been granted with respect to a child already in the home, the second child would be regarded as illegitimate? For example, suppose an unmarried couple living with a child, the man incapacitated and the child placed on ADC, and a later child is born through that union; under the State's interpretation of the law would ADC be denied or discontinued because this second child would be considered to be illegitimate? If so, a question would be raised because the termination or denial of assistance would seem to be based solely on the birth of an illegitimate child and not on the suitability of the home which was not in question up to point of birth of second child. If retained in the proposal, such a provision would have to be implemented in a way to assure that ADC would not be discontinued or denied in the situation described in above example. Otherwise question would be raised as to acceptability of proposal. In section 2 in clause "parent or relative is promiscuous" necessary since the idea conveyed thereby is covered by succeeding clauses?"

If you have any further questions about this matter that you would like to discuss with us, we would be pleased to have you call us.

Sincerely yours,

WAVE L. PERRY
Regional Representative

VM:of

Room 164
50 Seventh Street, N. E.
Atlanta 23, Georgia

April 29, 1959

Mr. Alvin T. Prestwood
Commissioner
State of Alabama
Department of Pensions and Security
Montgomery, Alabama

Dear Mr. Prestwood:

I wish to acknowledge receipt of your letter of April 28 transmitting a revised draft of the ADC bill which we discussed in our telephone conversation of that same date. We are transmitting a copy of your revised bill to our Washington office with the request that we be furnished with comments by this coming Friday. We will communicate with you as soon as such comments are received.

While I cannot speak with finality about this matter, it does seem to me that the revised draft has removed several of the objections noted in Mr. Perry's letter about your previous draft of the bill. The principal reservation that I would have about your present draft is the provision in section three concerning determinations by the county boards as to the suitability of the home following the birth of an illegitimate child in such home. You are aware, I am sure, that it would not be permissable to have variations in the standards of suitability of homes from county to county. It would be necessary for the state agency to establish state-wide standards for determining the suitability of homes which would have to be applied uniformly throughout the state. I should think that this could be accomplished by the regulations to be promulgated under section four of the proposed bill. We will promptly advise you of such

further comments as our central office may have to offer when they are received here.

Sincerely yours,
CARL H. HARPER
Regional Attorney

cc: AGC
GC:WE
PA

CHHarper:all

15:RO:IV
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

April 23, 1959

Mr. Alvin T. Prestwood
Commissioner
State Department of Pensions and Security
Administrative Building
64 North Union Street
Montgomery 4, Alabama

Dear Mr. Prestwood:

In reply to your letter of April 8, 1959 with which you submitted a proposed bill defining a "suitable home" as an amendment to the legal base for your Aid to Dependent Children program we have received the following comments from our Washington office:

> "Section 2 of the proposed legislation defines a 'suitable home' as one which provides a 'stable environment' and lists criteria to be applied to the determination of a 'suitable home' and a 'stable environment'. It appears under this definition that the birth status of the child of a non-marital, but stable, union would not affect eligibility if the home

was determined suitable. However, one of the criteria listed—'has continued to have illegitimate children' raises a question as to its meaning and intent. If, regardless of the fact that the home provided a 'stable environment', the children were to be denied ADC because all the children were illegitimate, or because a number of them were illegitimate, it would raise a question of reasonable classification. Such an interpretation would seem inconsistent with the other provisions of the section. Subject to the agency's interpretation and implementation of the section if this clause were deleted, or amended to provide 'has had children born of other than the stable environment', the section would not appear to require action contarry to the purposes of Title IV.

"Section 3 raises a number of questions as to its meaning and its consistency with Section 2. Can 'illicit relationships' be interpreted as not including a 'stable environment', i. e., would a child of a 'stable union' born after the receipt of ADC be regarded as illegitimate?

"If interpreted so that parents maintaining a stable relationship (non-marital) and providing a suitable home for the children receiving ADC because of incapacity of one parent will be removed from ADC if and when another child is born, it would raise a question. The termination of assistance would be due entirely to the birth of an illegitimate child rather than to any change in the home environment that had been considered stable up to that point.

"Moreover, Section 3 refers only to the mother. It applied only to the natural children of a mother, it would not be a suitable home provision since it relates only to the birth of a child. It would be necessary for the law to provide or the law would need to be read as denying ADC to all children living

with any relative who maintains an 'illicit relationship'.

"We believe that under Section 2, the agency could develop policies implementing the definition of 'suitable home' that would be based on the moral atmosphere of the home and not solely on the birth of an illegitimate child as is provided for in Section 3. Section 3 does not seem to us necessary in view of the criteria spelled out in Section 2 and would raise question."

As we have indicated in our discussions with you the question in Mississippi grew out of the conflict between the terms "stable environment" and "illicit relationships". The concept of a "stable environment" is no longer used by the Mississippi agency as it relates to homes where the moral environment is in question. Rather the Department has interpreted its law as meaning that a home is unsuitable if a non-legal marital relationship exists, without regard to the birth of a child and the fact that the home might be found to provide a stable environment by virtue of the fact that the same non-legal marital relationship has existed for several years.

This interpretation grew out of the position taken by the Mississippi agency that the term "illicit relationship" had to be construed as a "non-legal relationship". Such a construction is of course in conflict with the concept of "stable environment" since homes based on a non-legal relationship might be found to provide a stable relationship.

A construction of the term "illicit relationship" that would be consistent with the concept of a "stable environment" would make possible a much more desirable policy.

Sincerely,

WAVE L. PERRY
Regional Representative

State of Alabama

Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery 4, Alabama

Alvin T. Prestwood
Commissioner

August 17, 1959

Mr. Wave Perry, Regional Representative
Bureau of Public Assistance
Social Security Administration
Department of Health, Education, and Welfare
60 Seventh Street, N.E., Room 164
Atlanta 23, Georgia

Dear Mr. Perry:

I am attaching for your consideration two revised drafts of proposed policy material on suitability of the home. I will appreciate your letting me know if it meets requirements for Federal matching.

In my best judgment, the bill now in the Legislature will pass. Since it will become effective immediately upon its passage, it is important that our policy material be ready for release.

Sincerely yours,

/signed/
ALVIN T. PRESTWOOD
Commissioner

Enclosure

Suitable Home

Legal Base

Act .. of the 1959 regular session of the Legislature provides that aid shall be granted only on behalf of a

dependent child who is living in a suitable family home. "Suitable family home" as used in the Act means a family home which meets the standards of care, health, and morals fixed by the laws of the State and by the rules and regulations of the State Department of Pensions and Security. The Act specifies that determination of a suitable home shall include the pattern of living of the parent or other relative with whom the child resides, whether the parent or relative is promiscuous, has casual relationships either in or outside the home, has had or continued to have illegitimate children, and has otherwise failed to demonstrate an intent to establish a suitable family home.

Section 3 of Act .. provides:

"After receipt of a check from any county department of pensions and security and after the passage of the Act, the birth of an illegitimate child to the mother or other relative with whom the child is residing shall be prima facie evidence that the home is not a suitable family home and no assistance shall be paid unless and until proof satisfactory to the county board of pensions and security has been presented showing that the mother or other relative with whom the child is residing is maintaining a suitable family home for the children." (See "Decisions on Suitability of the Home" for implementation of Section 3 of the Act.)

Criteria Relative to Suitability of the Home

The criteria below shall be used by *county departments* and *county boards* in determining the suitability of the family home.

A *suitable* home is one which:

1. Conforms to acceptable standards of health and morals;

2. Protects and safeguards a child's welfare; and

3. Provides a child with love, care, and guidance.

Certain behavior can create conditions which make a home unsuitable. Generally, there would have to be frequently repeated incidents of the same behavior before it would cause the home to be unsuitable. However, for some types of behavior, one isolated incident may cause the home to be unsuitable—for example, a severely cruel beating. Illegitimate pregnancy or birth, as described in "4d and e", improper relations with a child or prostitution of a child *will* cause the home to be unsuitable. Also, a combination of unsuitable factors, even though no one of them is frequently repeated, may show disregard of the welfare of the child and cause the home to be unsuitable. When a decision is reached that a home is unsuitable, an application must be denied or a case closed. (See "Decisions on Suitability of the Home.")

Given below are some types of behavior which can or do create conditions which make a home unsuitable.

1. *Abuse of a child*—This may be physical abuse, such as beating, unduly heavy or long hours of work, or other cruel treatment; or it may be improper relations with a child.

2. *Exploitation of a child*—This occurs when a parent or other grantee relative has or permits a child to beg on the streets, sell or make contacts for the sale of illegal products, or when a parent or other relative is responsible for or permits the prostitution of a child.

3. *Neglect of a child*—This may be willful, as when the parent or other grantee relative is not interested in the child, is lazy, drinks excessively, or uses his income and grant for purposes other than necessities;

or it may stem from the parent's or other grantee relative's inability to give proper care, as when he is feeble-minded or physically disabled. A home will not be considered unsuitable, however, if the neglect is caused solely from lack of income. Some evidences of neglect are:

a. *Neglect of physical needs*—This may be evidenced by a child's obvious malnutrition, ragged or dirty clothing, etc.

b. *Neglect of care of a child*—This may be evidenced by a parent's or other grantee relative's repeatedly leaving the child alone in the home, on the streets, or without proper supervision or control.

Repeated arrest of the parent or other grantee relative for disorderly conduct, alcoholism, and other violations of the law can result in the neglect of the child and cause a home to be unsuitable.

4. *Immoral environment of home*—This situation exists when:

a. The parents live in the home together as man and wife and are not legally married according to the definition of legal marriage given later in this section.

b. The parent or other grantee relative and another person (related or not related to the child) live in a home together as man and wife and are not legally married.

c. The parent or other grantee relative living in the home is promiscuous, has casual relationships inside or outside the home, or has other undesirable patterns of behavior which may affect adversely the moral environment of the child.

d. Illegitimate pregnancy—The mother or other grantee relative living in the home is illegitimately pregnant at the time of application, review, or other agency contact.

e. Birth of illegitimate child—The mother or other grantee relative living in the home has given birth to an illegitimate child since the effective date of Act .. or has an illegitimate child less than 6 months old at the time of application, review, or other agency contact.

When a re-application is made after a denial or termination because of immoral environment of the home, the applicant/recipient must present convincing evidence such as the following to show that the immoral behavior has ceased and is not likely to recur:

(1) Reliable references substantiate the statements.

(2) The person with whom the parent or other grantee relative has been maintaining an illegal relationship has married another person and has terminated the illegal relationship.

(3) Parent or other individual moved out of the house or town where partner in illegal union lived, or vice versa, to terminate the illegal relationship.

(4) Casual relationships in or out of the home have ceased.

The four previously enumerated types of behavior—abuse, exploitation, or neglect of a child or immoral environment of home—are examples of common conditions that can or do make a home unsuitable. An investigation may reveal other serious conditions which indicate that the child is in immoral surroundings, or is under improper

or insufficient guardianship or control. When the child's morals, health or general welfare is thus endangered, ADC shall be denied or discontinued on the basis that the home is unsuitable. As an example of other serious conditions in the home, there may be—not by the parent or other grantee relative, but by other persons (related or not related to the child)—immoral conduct which affects adversely the moral environment of the child.

When the child is living with the grantee relative in a suitable home, the conduct of a parent who is living away from the home will not affect the suitability of the child's present home.

Decisions on Suitability of the Home—All decisions, whether by county department or county board, must be based on "Criteria Relative to Suitability of the Home." The procedures below must be followed:

County Department—County departments must make a decision as to suitability of the home at the time of application, review, re-application (except as listed below under "County Board"), and at any other time that there is a question as to suitability of the home. When there is a question about suitability of the home, the counsellor will explain what is meant by a suitable home and the proof needed and will make verifications, as indicated.

County Board—The county board must make the decision as to whether a re-application can be approved for payment on the basis of suitability of the home in the following two instances:

1. An applicant/recipient gave birth to an illegitimate child after ....., the effective date of Act ....., or had an illegitimate child less than 6 months old at the time of termination or denial; *or*

2. An applicant/recipient was illegitimately pregnant at the time of termination or denial.

When the applicant has not presented convincing evidence to the county department, it can reject the re-application without presenting it to the board unless the applicant requests it to be presented to the board. Under no circumstances, however, can the department approve these cases without favorable board action.

When the board is required to make the decision, the procedures below will be followed:

1. The county department will present any available evidence to the board for its use in reaching a decision as to whether the applicant is maintaining a suitable home. The counsellor who completes the re-application will prepare a summary of the evidence concerning suitability of the home, including facts about the conduct of the mother, reasons for the change in her way of living, and the substantiation obtained. Sufficient copies of the summary will be made for each board member to have one.

The above procedure does not preclude the appearance of the applicant before the county board to present evidence he or she may desire as to the present suitability of the home. The county board may require the applicant to appear before it to present evidence in person as to the suitability of the home.

2. The county director or board may request the counsellor who completed the re-application to come before the board to make statements concerning her findings.

3. The board may, in its discretion, require other witnesses or records in its consideration of the suitability of the home.

4. The board may approve, deny, or delay decision on a re-application.

a. The county department will prepare a listing of such re-applications before the board meeting. This listing shall be made a part of the board minutes and signed by the chairman.

b. All re-applications listed must have "approved", "denied", or "deferred", recorded at the side to show the action of the board.

c. If the board defers action because satisfactory evidence has not been presented, the board shall state the question it has about the home and shall at its next meeting consider the additional information which has been secured. If the board does not then approve the re-application and no further facts can be obtained, the denial notice to the applicant from the county department shall so state.

5. If the county board finds the home to be suitable even though the parent or other grantee relative is illegitimately pregnant, the subsequent birth of the child will in no way affect the continuance of assistance, since the board has, in accordance with Act ....., found that the home is suitable.

When any decision has been made to deny or terminate aid because of an unsuitable home, the Termination of Award or Denial of Aid must advise the client of his (her) right to present evidence that the home has become suitable.

Definition of Illegitimate Child

An illegitimate child is one who is born to parents who are not legally married, either through statutory ceremonial marriage or common-law marriage. A child born to a mother who is legally married will be presumed to be legitimate and ineligibility for assistance based on the birth as illegitimate can be established only if it is proven that the legal husband did not have access to his wife before the birth of the child.

Effect of Legitimation of Child

Act ..... is concerned with the birth of an illegitimate child. Subsequent legitimation of the child could not render the home suitable and thus avoid the operation of the Act. Legitimation by subsequent marriage of the parties may be considered as evidence that illegal activities have ceased and the home is now suitable.

Definition of Legal Marriage—The definitions given below are to be used in determining the marital status of the parent or other grantee relative in order to evaluate suitability of the home.

1. *Statutory Ceremonial Marriage*—This is a marriage between persons legally free to contract a marriage, and one for which a license was secured, a ceremony performed, the license completed by the minister or officer performing the ceremony and returned to the probate court for recording.

2. *Legal common-law marriage*—A common-law marriage in Alabama is as valid and binding as a ceremonial marriage. A common-law marriage arises from an agreement between a man and a woman, qualified for such relation, to become husband and wife, followed by cohabitation. Evidence that a man

and woman lived and cohabited as man and wife and openly proclaimed that relationship constitutes a valid common-law marriage. In summary, the following factors are present in a valid common-law marriage.

a. Both parties must have been free to contract a marriage; that is, any previous marriage (whether ceremonial or common-law) must have been terminated by death or divorce;

b. The parties agreed to become husband and wife; and

c. They lived and cohabited as man and wife, thus openly proclaiming their relationship.

A child of a valid common-law marriage is a legitimate child.

To determine the kind of marriage, the following steps are suggested:

1. Ask the applicant/recipient if he had a statutory ceremonial marriage. If he did and has a certified copy of the marriage license or a marriage certificate completed by the minister or official who performed the ceremony, examine it. This will be sufficient verification unless there is a question about the legality of the marriage. When the applicant/recipient has no such record, it may be possible to verify the marriage through court records or by a statement from the minister or official who performed the ceremony or from witnesses to it.

2. If the applicant/recipient states that the parties were free to contract a legal common-law marriage, then he must assist in securing evidence of their having lived together as man and wife and of their marriage having been recog-

nized in the community. Some evidences of a common-law marriage are:

a. Establishment of a home together, either through the renting of a house by the man and woman from a known person or through the purchase of property to be used as a home.

b. Establishment of credit at a grocery or clothing store by the man for the purpose of supplying necessities for the woman and children, as verified through the store.

c. An account of the circumstances of the beginning of the marital relationship, as supported by statements of members of the family of either or both parties and statements from selected persons in the community who knew the facts about the home's being established and maintained.

d. Any written material which includes information about the family group, plans for its maintenance, listing of members of the group, and the like. This may include letters, census records, school records, photographs, birth records of children, etc.

e. Statements of neighbors, friends elsewhere, or reliable relatives, concerning the marriage. These accounts are to be statements written by the person making them or recorded by the worker from verbal statements.

The burden of proof in establishing the relationship will rest upon the applicant/recipient and upon his willingness to give definite information, including dates.

Services in the Home or Other Plans for Children Indicated.

Services will be given in active or closed ADC cases in accordance with policies in Chapter Five, Section VI. In serious situations of abuse, exploitation, neglect, or immorality, the county department will wish to consider a substitute plan for the child's care. It may be necessary to ask the court to remove a child from its home. Every resource within the child's own family and relatives' homes, however, should be examined before removal of a child from his family is considered.

A petition filed in the Juvenile Court represents the first step in the initiation of formal juvenile court procedure in relation to dependency, neglect, or delinquency of a child. (Refer to *Manual for Administration of Child Welfare Services* for detailed information on Juvenile and Domestic Relations, foster home care, and institutional care.)

State of Alabama

Department of Pensions and Security
Montgomery 4, Alabama

April 8, 1959

Mr. Wave Perry, Regional Representative
Bureau of Public Assistance
Social Security Administration
Department of Health, Education, and Welfare
Room 164—50 Seventh Street, N. E.
Atlanta 23, Georgia

Re: Proposed ADC legislation.

My Dear Mr. Perry:

Yesterday afternoon this Department was requested to appear before the Subcommittee on Segregation Voting

Laws and Voter Registration of the Interim Committee on Revision of Laws to discuss proposed ADC legislation. At this session two proposed bills were presented and discussed. They are identical to House bills 893 and 894 introduced in the 1957 Legislature.

This subcommittee, as well as a screening committee of the Legislature, voted to recommend the attached bill. The subcommittee postponed action on the other bill.

We shall appreciate your reviewing this proposed legislation and giving us the benefit of your comments. Specifically, we would like to know whether there would be any question of failure to conform to Federal requirements or the continuation of Federal funds for aid to dependent children if this legislation were enacted and implemented.

Sincerely yours,

/s/ ALVIN T. PRESTWOOD,
ALVIN T. PRESTWOOD,
Commissioner.

A Bill to Be Entitled an Act.

Regulating further the payment of aid to dependent children.

Be It Enacted by the Legislature of Alabama:

Section 1. Aid to dependent children shall be granted only on behalf of a dependent child who is living in a "suitable family home," as the term is defined in this Act.

Section 2. As used in this Act, the term "suitable family home" means a family home which, in accordance with the rules and regulations of the state department of pensions and security, provides a stable environment for

the child or children residing therein. A determination of a suitable home shall include the pattern of living of the parent or other relative with whom the child resides, whether the parent or relative is promiscuous, has casual relationships either in or outside the home, has continued to have illegitimate children, and has otherwise failed to demonstrate an intent to establish a stable home.

Section 3. No person who is living with his or her mother, and whose mother has had an illegitimate child after receiving a check from any county department of pensions and security, shall receive any assistance under the program for aid to dependent children, unless and until proof satisfactory to the county board of pensions and security has been presented showing that the mother has ceased illicit relationships and is maintaining a suitable family home for the children.

Section 4. The state department of pensions and security shall promulgate and adopt such rules and regulations as may be necessary to carry out the intent and purpose of this Act.

Section 5. Except as otherwise provided herein, this Act shall not be construed as repealing any of the laws of this State governing the payment of aid to dependent children, but shall be deemed to be supplemental thereto.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

PLAINTIFFS' EXHIBIT 4.

Department of Health, Education, and Welfare

Welfare Administration

Form FS-553 (Rev. 1/52)

(To Be Prepared in Six Copies)

Copy

Budget Bureau No. 122-R068

Submittal and Report of Action on Public Assistance Plan Materials

1. To: Department of Health, Education, and Welfare

   Regional Office: Atlanta Georgia
   (Address)

   Attention: Family Services Representative

2. Date: February 28, 1966

3. Submittal No. 276

4. From: Alabama Department of Pensions and Security
   (State public assistance agency)

   Enclosed are six copies of the following materials submitted for approval as part of the State's plans for public assistance:

5. Signature: s/ RUBEN K. KING,

6. Title: Commissioner.

Identification of material and program affected	Outline reference	Effective date	Material superseded	Disposition 1/	
7	8	9	10	11	12
1. "Affidavit of Mother" (C)	IV	2-66	None	NL	
2. Administrative Letter No. 2113, transmitting the above. (C)	O	2-18-66	None	O	
3. Revised Summary of Eligibility Statement for ADC. (C)	IV	2-66	Supersedes statement dated 1-1-66	A	
4. Administrative Letter No. 2112, transmitting the above. (C)	O	2-18-66	None	O	

13. To: Alabama Department of Pensions and Security.

14. Date: May 6, 1966.

15. The above materials were received in the original office on 3/3/66.

16. Items A and AL accepted for incorporation: 5/6/66
(Date)

WAVE L. PERRY,
Family Services Representative.

1/ The symbols inserted indicate that the item:

(A) Has been accepted for incorporation into the State's approved plan.

(AL) Has been accepted for incorporation into the State's approved plan, comments in letters.

(O) Has been filed as other than plan material.

(NL) Is under consideration and notice of action will be sent later.

Administrative
Letter No. 2113
February 18, 1966

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Statement, Under Oath and in Writing—ADC

We have prepared the attached form to be used in securing information about the identity of the alleged father

of a child one year old or under. The policy requiring this statement appears in the third paragraph, page 25, Chapter Two, *Alabama Manual*, Part I.

In using this form, take action as follows:

1. Give the mother a detailed explanation of the contents of the form.

2. Explain to the mother that she is making a sworn statement. Also, that under Alabama Law anyone who *knowingly* and *willfully* gives false information in such a statement is liable to perjury charges and that the penalty for perjury is imprisonment.

3. *Always* strike through the inappropriate section of the form (item 2 or 3).

I hope that this form will prove helpful. An initial supply is being sent.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

State of Alabama

PSD-152

February, 1966

Department of Pensions and Security

Affidavit of Mother

State of Alabama

.....County

Before me, ..., a Notary Public in and for said county and state, personally appeared ....., who being by me first duly sworn, deposes and says:

1. That she is the mother of ....., an illegitimate child of the age of one year or under;
2. That ..... is the father of said child and that his last known address is ....;
3. That she does not know who is the father of said child for the following reasons: ....;
4. That the facts above stated by affiant are true and correct.

.....
Affiant

Sworn to and subscribed before me this ..... day of ....., 19.....

.....
Notary Public

Department of Health, Education, and Welfare

Welfare Administration

Form FS-553 (Rev. 1/52)

(To Be Prepared in Six Copies)

Copy

Budget Bureau No. 72-R440.2

Submittal and Report of Action on Public Assistance Plan Materials

1. To: Department of Health, Education, and Welfare
Regional Office: Atlanta, Georgia
(Address)
Attention: Family Services Representative
2. Date: July 13, 1964

3. Submittal No. 234

4. From: Alabama Department of Pensions and Security
(State public assistance agency)

Enclosed are six copies of the following materials submitted for approval as part of the State's plans for public assistance:

5. Signature: s/ RUBEN K. KING,

6. Title: Commissioner.

Identification of material and program affected	Outline reference	Effective date	Material superseded	Disposition 1/	
7	8	9	10	11	12
1. Administrative Letter No. 1919, "Further Restrictions in the Aid to Dependent Children Program, Effective Immediately" (C)	IV	7-7-64	Amends section relating to deprivation of parental support, especially the references to a substitute father, in Chapter Two of *Alabama Manual*, Part I	NL	

13. To: Alabama Department of Pensions and Security.

14. Date: July 24, 1964

15. The above materials were received in the regional office on 7-15-64.

16. Items-A and AL accepted for incorporation. .....
(Date)

WAVE L. PERRY,
Family Services Representative.

1/ The symbols inserted indicate that the item:

(A) Has been accepted for incorporation into the State's approved plan.

(AL) Has been accepted for incorporation into the State's approved plan, comments in letters.

(O) Has been filed as other than plan material.

(NL) Is under consideration and notice of action will be sent later.

Administrative
Letter No. 1919

July 7, 1964

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security.

Subject: Further Restrictions in the Aid to Dependent Children Program, Effective Immediately.

As I indicated to you in Administrative Letter No. 1910 released June 17, 1964, it is necessary to restrict our large aid to dependent children caseload. Given below is an additional restriction related to *Deprivation of Parental Support or Care,* Chapter Two, *Alabama Manual,* Part I. It further restricts policies relating to a substitute father and supersedes any policies conflicting with it; for example, the man (able-bodied or disabled) in and out of the home is considered a substitute father of all the children of the applicant/recipient in her home, whether they are his or not.

Substitute Father: A man, married or single, is considered a substitute father of all the children of the applicant/recipient in her home, whether they are his or not, if: (a) he lives in the home with the applicant/recipient for the purpose of cohabitation; or (b) if not living in the home regularly, he visits frequently for the purpose of cohabiting with the applicant/recipient; or (c) he has otherwise recently cohabited with the applicant/recipient as evidenced by her pregnancy or a baby six months of age or under. Pregnancy or a baby six months or under is prima facie

evidence of a substitute father as described above and an application must be rejected or a case closed immediately when this situation exists.

The factor of deprivation can be re-established only in a situation where strong, convincing evidence is submitted proving that the substitute father has discontinued his relationship. Evidence would include proof such as: the man has moved to a distant place, which would mean at least out of the county in which the mother lives, or has been admitted to a public institution.

When a mother has named a man as the father in "c" above, but he denies paternity, the mother is ineligible if she continues to maintain that he is the father. If she admits to misrepresenting the identity of the father, then she is ineligible unless she can establish that another man is really the father and the relationship is broken.

If a mother cannot name the father of her child, her application cannot be approved unless she can prove that she has discontinued her relationships with the possible fathers. She would have to present proof such as: the possible fathers are in distant places or in public institutions. If such proof cannot be given, it will be presumed that the child is not deprived of support.

The burden of proof rests with the mother. Her testimony must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; neighbors; ministers; or grocers,

Please put this policy into effect as you take applications, make reviews, or have other contacts. If you know of a case affected by this policy change, please get in

touch with the recipient, explain the policy, and close the case.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Administrative
Letter No. 1923

July 21, 1964

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: New ADC Policies

Attached is a one-page statement interpreting the new ADC policies. We plan to enclose this statement in some of the replies to letters from or about persons who have been removed from ADC or whose applications have been rejected for ADC because of the new policies.

With kindest regards, I am

Cordially yours,

/s/ RUBEN K. KING,
/s/ RUBEN K. KING,
Commissioner.

State of Alabama

Department of Pensions and Security
Montgomery

Interpretation of New ADC Policies of the Department of Pensions and Security

The Department of Pensions and Security is making further efforts to place responsibility for support of children on their parents and father substitutes rather than on the State and Federal governments. New restrictions governing eligibility of aid to dependent children have been released to all county departments of pensions and security.

Under one of these new policies, if parents leave children with a relative for their own convenience but retain contact with them, the children cannot receive aid. In other words, unless the children would be eligible in their own home, they will not be eligible in the home of a relative.

Under the second new policy, county departments are directed to consider a man a substitute father and liable for support of all children in a home if, though not married to the mother, he has privileges of a husband. If the mother is expecting a child or has one six months old or under, this is considered enough evidence that the man is a substitute father. No aid will be provided any of the children in such a situation.

Proof must be established under the new policy that relationships are discontinued before aid can be given or restored.

It should be pointed out that under already existing policies children were not eligible for ADC if they lived with two able-bodied parents, and that a parent substitute was considered the same as a parent.

These new policies are not intended to hurt children but to place the burden of support where it belongs.

July 1964

Department of Health, Education, and Welfare

Welfare Administration

Form FS-553 (Rev. 1/52)

(To Be Prepared in Six Copies)

Copy

Budget Bureau No. 122-R068

Submittal and Report of Action on Public Assistance Plan Materials

1. To: Department of Health, Education, and Welfare

Regional Office: Atlanta, Georgia
(Address)

Attention: Family Services Representative

2. Date: July 13, 1964

3. Submittal No. 234

Supplement

4. From: Alabama Department of Pensions and Security
(State public assistance agency)

Enclosed are six copies of the following materials submitted for approval as part of the State's plans for public assistance:

5. Signature: s/ RUBEN K. KING,

6. Title: Commissioner.

Identification of material and program affected	Outline reference	Effective date	Material superseded	Disposition	
7	8	9	10	1/ 11	12
. Administrative Letter No. 1919, "Further Restrictions in the Aid to Dependent Children Program, Effective Immediately" (C)	IV			Superseded prior to incorporation by Submittal No. 274, item 1a	

13. To: Alabama Department of Pensions and Security.

14. Date: January 18, 1967

15. The above materials were received in the regional office on 7/15/64.

16. Items A and AL accepted for incorporation: 1/18/67.
(Date)

WAVE L. PERRY,
Family Services Representative.

1/ The symbols inserted indicate that the item:

(A) Has been accepted for incorporation into the State's approved plan.

(AL) Has been accepted for incorporation into the State's approved plan, comments in letters.

(O) Has been filed as other than plan material.

(NL) Is under consideration and notice of action will be sent later.

Administrative
Letter No. 1919

July 7, 1964

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Further Restrictions in the Aid to Dependent Children Program, Effective Immediately

As I indicated to you in Administrative Letter No. 1910 released June 17, 1964, it is necessary to restrict our large

aid to dependent children caseload. Given below is an additional restriction related to *Deprivation of Parental Support or Care,* Chapter Two *Alabama Manual,* Part I. It further restricts policies relating to a substitute father and supersedes any policies conflicting with it; for example, the man (able-bodied or disabled) in and out of the home is considered a substitute father of all the children of the applicant/recipient in her home, whether they are his or not.

Substitute Father: A man, married or single, is considered a substitute father of all the children of the applicant/recipient in her home, whether they are his or not, if: (a) he lives in the home with the applicant/recipient for the purpose of cohabitation; or (b) if not living in the home regularly, he visits frequently for the purpose of cohabiting with the applicant/recipient; or (c) he has otherwise recently cohabited with the applicant/recipient as evidenced by her pregnancy or a baby six months of age or under. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as described above and an application must be rejected or a case closed immediately when this situation exists.

The factor of deprivation can be re-established only in a situation where strong, convincing evidence is submitted proving that the substitute father has discontinued his relationship. Evidence would include proof such as: the man has moved to a distant place, which would mean at least out of the county in which the mother lives, or has been admitted to a public institution.

When a mother has named a man as the father in "c" above, but he denies paternity, the mother is ineligible if she continues to maintain that he is the father. If she admits to misrepresenting the identity of the

father, then she is ineligible unless she can establish that another man is really the father and the relationship is broken.

If a mother cannot name the father of her child, her application cannot be approved unless she can prove that she has discontinued her relationships with the possible fathers. She would have to present proof such as: the possible fathers are in distant places or in public institutions. If such proof cannot be given, it will be presumed that the child is not deprived of support.

The burden of proof rests with the mother. Her testimony must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law enforcement officials; neighbors; ministers; or grocers.

Please put this policy into effect as you take applications, make reviews, or have other contacts. If you know of a case affected by this policy change, please get in touch with the recipient, explain the policy, and close the case.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Department of Health, Education, and Welfare

Welfare Administration

Form FS-553 (Rev. 1/52)

(To Be Prepared in Six Copies)

Copy

Budget Bureau No. 122-R068

Submittal and Report of Action on Public Assistance Plan Materials

1. To: Department of Health, Education, and Welfare

   Regional Office: Atlanta, Georgia
   (Address)

   Attention: Family Services Representative

2. Date: March 3, 1965

3. Submittal No. 245

   Supplement

4. From: Alabama Department of Pensions and Security
   (State public assistance agency)

   Enclosed are six copies of the following materials submitted for approval as part of the State's plans for public assistance:

5. Signature s/ RUBEN K. KING,

6. Title: Commissioner.

Identification of material and program affected	Outline reference	Effective date	Material superseded	Disposition 1/ 11	12
7	8	9	10		
1. Administrative Letter No. 1986 "Further Interpretations Relating to Administrative Letter No. 1919 Concerned with the Substitute Father Policy" (C)	IV			Superseded prior to incorporation by Submittal No. 274, item 1a	

13. To: Alabama Department of Pensions and Security.

14. Date: January 18, 1967

15. The above materials were received in the regional office on 3/9/65.

16. Items A and AL accepted for incorporation: 1/18/67.
(Date)

WAVE L. PERRY,
Family Services Representative.

1/ The symbols inserted indicate that the item:

(A) Has been accepted for incorporation into the State's approved plan.

(AL) Has been accepted for incorporation into the State's approved plan, comments in letters.

(O) Has been filed as other than plan material.

(NL) Is under consideration and notice of action will be sent later.

Administrative
Letter No. 1986

February 26, 1965

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Further Interpretations Relating to Administrative Letter No. 1919 Concerned With the Substitute Father Policy

I am writing this letter to emphasize and clarify current interpretations of Administrative Letter No. 1919.

1. If a relationship has been broken and a family is otherwise eligible, re-certify the case for aid immediately.

2. While it is true that the burden of proof rests with the mother, help her establish a broken relationship to the same extent as you would help establish any other eligibility factor.

3. Do not close a case or reject an application without having an interview with the mother to discuss the reason.

4. If you know the current addresses of persons removed because of the substitute father policy, write to them saying that, if they can establish that they have broken their relationships, they may want to re-apply for aid.

5. Discontinuance of public assistance because of the substitute father policy or for any other reason does not necessarily mean that a person cannot receive commodities. The mother should be advised to reapply for commodities under the category of "Other." If she meets the requirements, she can receive the commodities.

I will expect your usual cooperation in carrying out these interpretations.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Department of Health, Education, and Welfare

Welfare Administration

Form FS-553 (Rev. 1/52)

(To Be Prepared in Six Copies)

Copy

Budget Bureau No. 122-R068

Submittal and Report of Action on Public Assistance Plan Materials

1. To: Department of Health, Education, and Welfare

Regional Office: Atlanta, Georgia
(Address)

Attention: Family Services Representative

2. Date: April 20, 1966

3. Submittal No. 277

4. From: Alabama Department of Pensions and Security
(State public assistance agency)

Enclosed are six copies of the following materials submitted for approval as part of the State's plans for public assistance:

5. Signature: s/ RUBEN K. KING,

6. Title: Commissioner.

Identification of material and program affected	Outline reference	Effective date	Material superseded	Disposition 1/	
7	8	9	10	11	12
1. Administrative Letter No. 2121, March 25, 1966, "Appointment of a Legal Representative for Certain Public Assistance Recipients" (A, B, C, D)	IV	4-1-66	None	A	
a. Attached Form PSD-153, March 25, 1966	O	4-1-66	None	O	
b. Attached Form PSD-154, March 25, 1966	O	4-1-66	None	O	
c. Attached sample form letter to be used by attorney in claiming reimbursement for expense	O	4-1-66	None	O	
2. Revised pages 25 and 25a, Chapter Two, *Alabama Manual*, Part I. (C)	IV	3-28-66	Amends *Alabama Manual*, Part I, Chapter Two, page 25.	NL	
a. Administrative Letter No. 2122, March 28, 1966, transmitting the above.	O	3-28-66	None	O	

13. To: Alabama Department of Pensions and Security.

14. Date: May 6, 1966.

15. The above materials were received in the regional office on 4/26/66.

16. Items A and AL accepted for incorporation: 5/6/66.
(Date)

WAVE L. PERRY,
Family Services Representative.

1/ The symbols inserted indicate that the item:

(A) Has been accepted for incorporation into the State's approved plan.

(AL) Has been accepted for incorporation into the State's approved plan, comments in letters.

(O) Has been filed as other than plan material.

(NL) Is under consideration and notice of action will be sent later.

Administrative
Letter No. 2122

March 28, 1966

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Substitute Father, ADC—Pages 25 and 25a, Chapter Two, *Alabama Manual,* Part I, Effective Immediately—Revision No. 15

We are sending each manual holder a copy of the revision referred to above. Please substitute revised page II-25 for that of the same number dated February, 1966. Page II-25a is an addition. This revision has been made because of the questions some of you had. The change incorporates the following:

1. A policy change relating to the mentally ill or retarded mother of a child one year of age and under; and

2. Instructions for completing PSD-152, "Affidavit of Mother."

Thank you for your cooperation.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or visting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the

family is otherwise eligible, the case should be recertified for aid immediately.

The mother of an illegitimate child applying for ADC must sign an affidavit giving the name and last known address of the father of the child if the child is one year old or under. If she is unable to name the father of an illegitimate child one year or under, she must complete an affidavit setting forth her reasons for not knowing who is the father of her child. *Exception*: Given below are two exceptions that apply in the case of a mentally ill or retarded mother of a child one year of age or under:

1. Do not require an affidavit if the mother has a legally appointed guardian or representative.

2. If the mother is not in the home *and* is not in the community, have the grantee relative complete the affidavit, unless one of the conditions described in item 1 exists.

Ala. Manual, Part I II-25a

Use PSD-152, "Affidavit of Mother," in securing information about the identity of the alleged father of a child one year of age or under. In preparing the affidavit, the counselor is responsible for:

1. Giving the affiant a detailed explanation of the contents of the form;

2. Explaining that she is making a sworn statement; also, that under Alabama Law anyone who knowingly and wilfully gives false information in such a statement is liable to perjury charges and that the penalty for perjury is imprisonment;

3. Explaining that she will not be eligible if she does not give the information required and sign the affidavit;

4. Explaining that she is free to decide whether or not she wishes to give the information and sign the affidavit;

5. Striking through the inappropriate section of the form (item 2 or 3); and

6. Changing the wording on the form to reflect the identity of the affiant when the grantee relative is the person giving the information.

The affidavit may be notarized by a staff member of the county department. The notary enters at the point at which the affidavit is ready for signature. Before it is signed, she must assure herself that the affiant:

1. Is aware of the contents of the affidavit;

2. Is making the statement voluntarily; and

3. Is aware that she is making a sworn statement.

In addition to the affidavit, the mother of an illigitimate child one year of age or under must present two acceptable reference statements, as described earlier in this section, to establish that the relationship with the "father" is broken. Where feasible, these statements should be in writing.

B. *Mother Substitute*: If a child's natural or adoptive father cohabits with a woman *who lives in his home*, she is considered a substitute mother of all the children in his home. The woman's pregnancy or having a baby six months or under is prima facie evidence that she is cohabiting with the father in whose home she is living.

Department of Health, Education, and Welfare

Welfare Administration

Form FS-553 (Rev. 1/52)

(To Be Prepared in Six Copies)

Copy

Budget Bureau No. 122-R068.

Submittal and Report of Action on Public Assistance Plan Materials

1. To: Department of Health, Education, and Welfare

   Regional Office: Atlanta, Georgia
   (Address)

   Attention: Family Services Representative

2. Date: February 11, 1966

3. Submittal No. 274

4. From: Alabama Department of Pensions and Security
   (State public assistance agency)

   Enclosed are six copies of the following materials submitted for approval as part of the State's plans for public assistance:

5. Signature: s/ RUBEN K. KING,

6. Title: Commissioner.

Identification of material and program affected	Outline reference	Effective date	Material superseded	Disposition	
7	8	9	10	1/ 11	12
a. Chapter Two, *Alabama Manual*, Part I. (A, B, C, D). Also MAA.	IV	2-1-66	Chapter Two, 1962, *Alabama Manual*, Part I	A	Except item V, pg. II-24-26, item VI pg. II-26-29 & item VIII pg. II-39-43.
b. Administrative Letter No. 2106, "Rewritten Chapter Two, Effective Immediately," transmitting the above.	O	2-1-66	None	O	
c. Chapter II, Alabama Manual, Part I, Page 25			Same page dated 12-1-62		Superseded prior to incorporation by submittal FS-553 No. 277 dated 4/20/66
d. Chapter II, Alabama Manual, Part I, Pages 24, 26-29 and 39-43	IV	2/66	Chapter II, 1962 *Alabama Manual*	NL	

13. To: Alabama Department of Pensions and Security.

14. Date: May 6, 1966

15. The above materials were received in the regional office on 2/16/66.

16. Items A and AL accepted for incorporation: 5/6/66.
(Date)

WAVE L. PERRY,
Family Services Representative.

1/ The symbols inserted indicate that the item:

(A) Has been accepted for incorporation into the State's approved plan.

(AL) Has been accepted for incorporation into the State's approved plan, comments in letters.

(O) Has been filed as other than plan material.

(NL) Is under consideration and notice of action will be sent later.

Administrative
Letter No. 2106

February 1, 1966

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Rewritten Chapter Two, Effective Immediately

We are sending you copies of a rewritten Chapter Two. The rewritten chapter has been reorganized and contains many of the same policies in the superseded chapter as well as policies released in Administrative Letters. A few changes in policy have been made. We call your attention particularly to the following:

1. We can extend ADC to needy children ages 18 to 21 who are regularly attending elementary grades, high school, or regularly attending a course of vocational or technical training designed to fit them for gainful employment.

2. The substitute parent policy has been modified to provide for children of disabled substitute parents to be eligible for aid.

3. The mother of an illegitimate child applying for ADC must, under oath and in writing, give the name and last known address of the father of the child if the child is one year old or under. If she is unable to name the father of an illegitimate child one year or under, she must, under oath and in writing, set forth her reasons for not knowing who is the father of her child.

4. In ADC farm cases, eligibility for children whose father is disabled should be established in the same manner as in non-farm cases.

5. The income tax policy as it relates to parents absent from the home has been clarified. Procedures to be followed in the case of legal parents absent from the home appear on page II-34; those to be followed in the case of alleged fathers absent from the home appear on page II-42.

   Please have each manual holder make the following pen and ink changes:

   a. In page III-27, in the paragraph headed "Exception" following "Refer to" add "pages 34 and 42 under." In the third line of this same paragraph add "absent from the home" after "parents."

   b. On page V-3, strike through the last sentence in item b-(3).

6. The suitable home provisions have been clarified and are to be used in conjunction with the plan of services for children in Chapter Five of the manual.

The rewritten Chapter Two supersedes the present one in the 1962 Manual. It also makes obsolete the following letters:

1 Administrative Letter No. 1609, May 7, 1962, relating to PSD-79 pen and ink revisions and witnessing signatures by mark.

2. Administrative Letter No. 1660, November 30, 1962, transmitting Chapter Two, effective December 1, 1962.

3. Administrative Letter No. 1718, May 20, 1963, relating to locating deserting parents.

4. Administrative Letter No. 1759, July 26, 1963, relating to procedure for requesting services of the Ala-

bama Department of Public Safety in locating deserting parents in ADC cases.

5. Administrative Letter No. 1766, August 9, 1963, relating to procedures for requesting services of the Alabama Department of Industrial Relations in locating deserting parents in ADC cases.

6. Administrative Letter No. 1771, August 16, 1963, relating to procedures for requesting services of the Alabama Department of Revenue in locating deserting parents in ADC cases.

7. Administrative Letter No. 1787, September 20, 1963, relating to residence of applicants/recipients.

8. Administrative Letter No. 1791, September 23, 1963, relating to added emphasis on securing support from absent parents.

9. Administrative Letter No. 1910, June 17, 1964, relating to restrictions in the ADC program.

10. Administrative Letter No. 1919, July 7, 1964, relating to further restrictions in the ADC program.

11. Administrative Letter No. 1986, February 26, 1965, relating to interpretations concerned with the substitute father policy.

12. Administrative Letter No. 2084, December 14, 1965, relating to clearance procedures with Social Security Administration for addresses of deserting parents.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

February, 1966

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February, 1966

Chapter Two

Determination of Factors Other Than Need Relating to Eligibility

Section I

Determination of Age

I. *Age Requirements*

A. *OAP*—At least 65. Establish the exact birth date, if possible. OAP may be paid to a person in the month he becomes 65. If he is in his sixty-fifth year but the month of birth is unknown, accept July 1 as date of birth.

B. *AB*—At least 16. Establish the exact age if it is near 16. (The 16 year age limit is a regulation of the State Department.)

C. *ADC*—Under 18. Verify the month, day, and year of each child's birth because he is no longer eligible after the month in which he becomes 18 unless he is in regular

attendance in school, including elementary grades, high school, or regularly attending a course of vocational or technical training designed to fit him for gainful employment. Those who are attending school, or taking a course of vocational or technical training, on a part-time basis are considered to be in regular attendance. In such instances, aid may be continued to children ages 18 to 21. (If his birthday falls on the first day of the month, he is not eligible for that month.) Do not deny aid to an infant or young child whose birth date cannot be established immediately. Give a description of the child or other reasons why it is obvious that he is under 18. Then take immediate steps to establish his definite age.

There is no age requirement for the grantee relative. Consider, however, a person's maturity in deciding whether to make a payment to a person under 16.

While a birth certificate is not the only acceptable proof of age, as a service, assist all families to secure birth certificates for children.

D. *APTD*—At least 18 and under 65. Establish the exact birth date, if possible. If a person's age is near 18 or 65, it is essential to establish the exact birth date; however, when it appears that a person is 65, but efforts have failed to establish this, assume that he is under 65. Continue efforts to prove exact age.

E. *TA*—No age requirement. Consider, however, a person's maturity in deciding whether to make a payment to a person under 16.

II. *Suggested Methods of Establishing Age*

Given below are suggested sources and methods of verifying age. Other sources known to the worker may also be used.

A. Birth certificate of applicant. (The county department may accept a delayed birth certificate when there is no conflicting information about date of birth. However, if it appears that the birth certificate was secured for the purpose of qualifying for aid, the documentary evidence should be examined.)

B. Birth certificate of an applicant's child if applicant's age at time of child's birth was given.

C. Baptismal, confirmation, or other church or parish records.

D. Naturalization records.

E. Court records, such as probate, foreclosure, divorce proceedings, property transferrals, showing applicant's age at time record was made.

F. School records.

G. The following sources are acceptable, provided the documents were issued before application for public aid and there is no question about their reliability.

1. Insurance policies.
2. Voting registration records and poll tax records.
3. Licenses of various kinds, such as fishing and hunting, barbers, beauticians, ministers.
4. Hospital records.
5. Employment records and applications for employment.
6. Trade union records.
7. Fraternal or patriotic organization records.
8. Newspaper records, homestead records, naturalization records, or immigration papers.

H. Bible or other family records which appear to be authentic.

I. Written statement of a person having knowledge bearing upon an applicant's age. The statement must show:

1. Name and address of applicant.

2. Date, name, age, and address of person making the statement.

3. Number of years person has known applicant.

4. Age of applicant and facts upon which person's knowledge is based.

J. Social agency records made before application for aid, provided there is no doubt that applicant gave correct information at time record was made.

A previous record for the same type of aid is not always acceptable. For example, if a person previously applied for OAP, but no verification of age was secured, the age given at the time of prior application is not considered proof of age. On the other hand, if an OAP applicant previously applied for AB, for which there is no upper age requirement, and gave his age at that time, this record is acceptable, provided it does not conflict with the client's current statement of his age. In cases of conflicting information, additional proof will be required.

K. OASDI records—Age of the applicant/recipient as it appears on the reverse side (completed by OASDI) of the referral form, PSD-62, will be accepted without further verification provided there is no conflict with other records. In case of conflicting information, additional proof will be required

L. United States Census Records. (Do not pay the fees for a search of census records as an administrative expense unless age cannot be established otherwise.)

1. Before filing an application with the Census Bureau, obtain forms and instructions from the Bureau of Census, Administrative Service Division, Personal Census Service Branch, Pittsburg, Kansas.

2. As census records since 1880 are confidential, obtain the applicant's signature or his legal guardian's before making a request to the Census Bureau.

3. The Bureau of the Census makes the following charges for a search of census records:

(a) $4.00 for a search in regular turn of not more than two censuses for one person; or

(b) $5.00 for a search ahead of $4.00 searches of not more than two censuses for one person.

(See Chapter Four for instructions when the county department plans to pay these fees as an administrative expense.)

Section II

Determination of Residence

Alabama laws set residence requirements on a categorical basis. For OAP, AB, and APTD, a person must have State residence in order to receive aid. For ADC, the law sets forth several requirements, one of which must be met. For TA, residence requirements are set by the State Department. (Refer to Section I, "Determination of Age.") Some of the suggested methods for establishing age may also be useful in establishing residence.

The department has the responsibility to determine residence for public assistance. The department has no authority to authorize the return of an individual to

Alabama except in certain specific types of services to children authorized by statute. (Refer to Administrative Letter No. 992, dated October 11, 1956.)

I. *Applicants*

A person who has State residence for public assistance purposes, if otherwise eligible, may receive aid in the county where he lives and applies for aid in that county. That county department determines his eligibility and counts the application statistically. If the person is approved for aid, his name is placed on the county payroll. (See "Persons Living in Licensed Institutions" in this same section. Also, refer to Chapter One for approval of an application while a person is outside the State.)

Temporary absence from the State does not affect residence if the absence is not for the purpose of establishing residence elsewhere. *Exception*: An applicant who lived in Alabama a year or longer before application will be considered a resident even though he may have left Alabama with the intention of making his home elsewhere provided he returned to live in Alabama within six months.

Active duty in the Armed Forces is not considered as interrupting residence of the member of the Armed Forces, his wife, children (who go with him or are born while he is in the Armed Forces), or other close relative (such as mother) for whom he has responsibility and who has to accompany him on his assignment.

A. *OAP, AB, and APTD*—Prove that Alabama residence for public assistance purposes exists. To establish such Alabama residence, secure these facts:

1. That the applicant came to Alabama at least one year before making his application;

2. That the applicant was physically present in Alabama during the 12-month period, except for temporary visits, emergencies, unusual circumstances and in instances relating to members of the Armed Forces;

3. That the applicant considered Alabama his home during the entire year, even though he may have been temporarily absent. (See "Exception" in second paragraph under "Applicants.") For a person who moves to Alabama, stays here a year and says at the time of application that he considers Alabama his home, a presumption will be made that he has gained residence.

B. *ADC*—Prove that one of the following public assistance residence requirements is met:

1. That the child has lived in Alabama for at least one year immediately preceding application in his behalf.

2. That the child was born in Alabama within the year immediately preceding application in his behalf.

If the child was born in Alabama within the year immediately preceding application in his behalf, he meets residence requirements even though his mother may not have Alabama residence.

3. That the parent or other grantee relative (as enumerated in "Living in Home of Relative and Grantee Relative Defined," Chapter Two) with whom a child lives resided within Alabama for one year immediately preceding the child's birth. This means that a child may be eligible regardless of place of birth.

If the parent or other grantee relative lived in Alabama for at least one year immediately preceding

the child's birth and considered Alabama her (his) residence at the time of the child's birth (see "Exception" in second paragraph under "Applicants"), the fact that the parent, other grantee relative, or child may later be absent from Alabama for a year or more will not bar the child's eligibility. The child, however, must be actually living in the State when the application is approved unless he is temporarily absent because of illness.

4. That the mother of an unborn child has lived in Alabama for at least one year immediately preceding application. (See "Exception" in second paragraph under "Applicants.")

C. *TA*—Prove that a person has lived in Alabama for at least six months immediately preceding application. *Exception*: A sick or disabled transient may receive aid for 30 days, regardless of residence.

II. *Recipients.*

A recipient must keep his Alabama residence for public assistance purposes to remain eligible for aid. Temporary absence from the State does not affect residence if it is not for the purpose of establishing residence elsewhere. *Exception*: A recipient who lived in Alabama for a year or longer will be considered a resident even though he may have left with the intention of making his home elsewhere provided he returned to live in Alabama within six months.

When the county department has no opportunity to talk with a recipient before he leaves Alabama, or does not learn of his absence until he has already left the State, the county department must begin immediately to determine whether he retains Alabama residence.

The county department will send the recipient a letter by certified mail, return receipt requested, saying that the county department will presume that he has abandoned Alabama residence if they do not hear from him within 30 days and will close his case the following month unless he presents acceptable evidence to the contrary before the case is closed.

After a case is closed, acceptable evidence may be presented that the person was visiting only, or that he is returning or has returned within six months, or is being detained because of illness. A re-application cannot be approved until he returns to Alabama unless he is detained because of illness. Then a re-application can be approved while he is out of the State. (See Chapter One.)

III. *Ways to Determine Whether or Not Persons Have Residence.*

A person must furnish proof about his residence. The county department will assist him by suggesting ways to prove his intention. The following are some suggestions for determining the gaining, retention, or abandonment of residence:

A. Secure from the person such information as the following:

1. When he came to Alabama and how long he has lived here;

2. If he has been out of the State:

a. Why he left Alabama and for how long;

b. Whether he maintains a home in Alabama to which he expects to return;

c. Whether he left household and personal possessions in Alabama;

d. His living arrangements and activities during absence;

e. Whether he retains membership in an Alabama church, or retains his Alabama address on insurance policies;

f. Any reasons why he has been detained outside the State;

g. If he returns, why he came back and his plans for a place to live.

B. In addition, when necessary, do the following things:

1. Secure information locally from such sources as merchants, acquaintances, friends, relatives, the postman, and the person with whom the recipient lived in Alabama.

2. Request an out-of-state agency to make an investigation.

Base the decision as to the gaining, retention, or abandonment of Alabama residence on the preponderance of evidence from the person and other sources. Vague plans to return are not acceptable as intention to retain Alabama residence. The intent of a person plus his actions are the controlling considerations in determining the gaining, retention, or abandonment of Alabama residence.

IV. *Temporary Visits or Retention of Residence.*

Temporary visits outside Alabama do not affect a person's gaining or retaining residence. However, if a person "visits" for longer than a year, the presumption will be made that he has abandoned residence, unless he presents acceptable evidence to the contrary.

If the county department decides that a person is or was visiting only and, therefore, keeps his Alabama residence, follow the procedures below.

A. For an applicant, consider that the temporary visit did not interfere with gaining or retaining residence, provided he returns within a year unless detained for reasons as given in "B-2" below for recipients.

B. For a recipient, do as follows:

1. Continue aid as long as he retains Alabama residence and is otherwise eligible;

2. Reach a mutual agreement as to the time he plans to return to Alabama. Expect him to follow this plan, unless he is detained because of an emergency or other unusual circumstance. Emergencies include: illness of recipient or his family, accident, injury, legal detention for any reason, or other unavoidable delays, such as when the recipient is unable to travel alone and no person is available at the time to

accompany him. If failure to return is due to illness of the recipient or member of his family, he must substantiate this fact by furnishing the agency a written statement by a physician;

3. After his first three months of absence from Alabama, have the recipient report quarterly his plans and intent to return to Alabama. Advise him that aid will be discontinued at any time that he fails to do so. If a recipient should "visit" for as long as nine months and is not detained for reasons given earlier in "B-2," advise him that aid will be discontinued at the end of a year's absence from the State, as it will be presumed that he has abandoned residence, unless he presents acceptable evidence to the contrary.

A person may leave Alabama with indefinite plans for his future; for example, he may go to stay with a child

because of age or physical disability. In such an instance, where a person has no definite intent to establish residence elsewhere, consider his stay a visit and presume that Alabama residence exists. Follow the policies set forth in this section governing temporary visits.

V. *Persons Who Forfeit Assistance by Absence but Return Within Six Months.*

A recipient who leaves Alabama with the stated intention of making his residence elsewhere forfeits his right to assistance. Aid must be discontinued the month following his departure from Alabama or the month following the agency's discovery of his living in another State with the intention to remain there (refer to "Recipients").

Such a former recipient may find that his plans for living in another State did not work out. If he returns to Alabama within six months after leaving, consider him still a resident of Alabama for public assistance purposes, provided he can offer satisfactory evidence that he intends to set up permanent living arrangements here again. The fact that he may return for temporary visits does not qualify him for aid on the basis of residence.

If such former recipient does not return within six months, he must live in Alabama one year from the date he returns to make his home here before he regains residence for public aid. (The ADC time limits are different in some respects and must be followed. See points 2 and 3 under "ADC". Also, TA time limits are different.)

VI. *Persons Living in Licensed Institutions.*

An OAP, AB, or APTD recipient who must leave Alabama to secure in a licensed institution needed care that is not available to him in Alabama does not lose his residence even though he is absent for one

year or longer. He may receive aid as long as his motive is to secure care not available in Alabama. That is, provided he is in an institution of a type where aid is permitted under Alabama policies. (See "Public and Private Institutions", Chapter Two.)

When an OAP, AB, or APTD recipient leaves his home county to receive care in a licensed institution in another county of the State, such a case usually will be transferred. (Refer to Chapter Three, "Procedures When Nursing Home Care Is Indicated.")

If a case is not transferred, the two counties concerned have certain duties. The county carrying responsibility for aid must provide the county where the institution is located a detailed summary, including points relating to eligibility and information which would be helpful in rendering other services. The county where the institution is located will provide information regarding the person's need for continued institutional care, his physical or mental condition, the cost of care, his other needs, and any known income/resources. The county carrying responsibility for aid will complete all other necessary clearances and will complete a budget. It will write the department in the county where the institution is located of any change in the status of the case, such as increase or decrease in grant. The county where the person lived before entering the institution will usually accept responsibility for assistance with subsequent living plans.

The above policies also apply to applicants for public aid. This may be a person who is an applicant at the time he enters an institution or who makes application after entering an institution.

VII. *Transfer of Public Aid Cases.*

A person or family should not be penalized when they move from one county to another. A recipient usually will notify the county where he is living of his plan to move. If he fails to do so, the county first learning of the move shall try to learn his intention, either by talking with him or a member of his family, or by writing a letter to him, with a copy to the other county department concerned.

As soon as the county which carries the recipient's name on its payroll learns that he intends to move to the second county, it must send to the second county, by certified mail, return receipt requested, the case record and the original and two copies of Transfer Agreement, PSD-81, with the top portion completed except for the date of the last check from the first county. The first county will retain in its files: (1) the case folder with copies of correspondence about the transfer, including PSD-81 (when the completed copy of PSD-81 is returned by the second county, the incomplete copy may be destroyed); out-of-date correspondence; old budgets and statements of income/resources; and (2) the financial forms initiated on the case when it was active in that county.

While the second county is completing clearances to determine the proper action on the case, the first county has responsibility for notifying the Bureal of Accounts, State Department, of any change of address or change in payment. The second county must promptly provide the first county information needed to make these changes.

After receiving case material from the first county, the second county will make clearances needed to determine continuing eligibility. The review date established by the

first county may be used as the review date by the second county. If a complete review is not due and all needed is a revised budget to reflect new living arrangements, this is sufficient. In any event, a complete review must be made at least annually in the adult categories (six months, ADC).

The two counties involved shall exchange correspondence until a final agreement is reached as to:

1. The date the second county will carry the person's name on its payroll, which must not be later than the third month. The first month is the one during which the record is mailed to the second county; the second month is the one during which the second county must complete its investigation; the third month is the one during which the action must become effective in both counties.

or

2. The date the case will be closed if the person is no longer eligible, which must be not later than the third month.

If the person's continued eligibility is established, the second county will complete the lower part of the transfer agreements sent by the first county and will fill in the date on the top part. The second county will mail the original to the Bureau of Accounts, State Department, a copy to the first county, and will retain one copy for its own files.

The second county will send to the Bureau of Accounts, State Department, an Award Authorization to cover the effective date of the Transfer Agreement. The county from which the person moved will send in a Termination of Award, effective that same month.

Note: In selecting cases for the spot check, pass over those transferred or being transferred and select the next name on the list.

SECTION III

DETERMINATION OF PHYSICAL AND MENTAL INCAPACITY

If an examination is required to establish the disability factor for eligibility for aid, use one of the following forms:

1. PSD-79 Revised, in APTD, ADC, and TA.
2. PA-701 Revised or PSD-87 Revised, in AB.

Do not refer a person for a medical examination unless he appears to meet other eligibility requirements. Usually this is after the home visit. Before the department of pensions and security can pay for the cost of an examination as an administrative expense, a person must take advantage of free public or private diagnostic facilities. If free facilities are not available, a person has the right to select any legal licensed physician of his choice. Legally licensed physician refers to a doctor of medicine or to an osteopathic physician. In AB, he may select either an approved opthalmologist or a legally licensed, qualified optometrist.

I. *Aid to Dependent Children and Temporary Aid.*

In these two categories, a person's disability must be determined by one of the following methods:

A. The diagnosis of a legally licensed physician; or

B. An external handicap clearly obvious to the worker, such as paralysis or amputated limbs.

If a physician's diagnosis is necessary, previous examinations are acceptable if they clearly establish current

disability. Written medical reports or copies of medical records from hospitals, clinics, VRS, VA, industrial organizations, or written statements from legally licensed physicians are sufficient.

If disability cannot be established by one of the above methods, the applicant/recipient must have a current examination by a legally licensed physician.

In ADC, if a parent's incapacity is temporary or partial, reinvestigate the case as often as necessary to determine the parent's ability to assume financial support.

II. *Aid to the Blind.*

A. *Definition of Blindness*—A person is considered blind who has no vision, or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential. Central visual acuity of 20/200 or less in

the better eye with correcting glasses is considered as economic blindness. A person, however, may be considered blind if his central visual acuity is more than 20/200 in the better eye with correcting glasses but a rough test shows him to have a marked field defect. The marked field defect is one in which the peripheral field has contracted to such an extent that the widest diameter of the visual field subtends an angular distance no greater than 20 degrees.

B. *Eye Examinations*—AB shall not be granted to any person until:

1. He has been examined by:
   a. A legally qualified opthalmologist; or
   b. A legally licensed, qualified optometrist.

2. The county director has received the State Supervising Ophthalomogist's approval of the eye examination.

Exception: When both eyes are missing, no examination is necessary.

The State Department furnishes county departments with approved lists of ophthalmologists and optometrists qualified to conduct examinations for determination of blindness. (The Secretary of the Alabama Medical Association provides the information about opthalmologists. The Alabama Optometric Association and the Alabama State Board of Optometry provide information about optometrists.) If county directors know of other opthalmologists or optometrists who could be added to the approved lists, they should forward recommendations to the Commissioner, attention of the Bureau of Public Assistance for handling.

Each county department must furnish legally qualified ophthalmologists and optometrists a supply of forms for determining blindness. PA-701, Physician's Report on Eye Examination, will be used by opthalmologists. PSD-87, Optometrist's Report on Eye Examination will be used by optometrists. The examining ophthalmologist or optometrist shall complete for each applicant/recipient the forms in duplicate and submit them to the county director.

The county director shall submit both the original and duplicate of PA-701 or PSD-87 to the Commissioner, attention of the Bureau of Public Assistance of the State Department, for forwarding to the State Supervising Opthalmologist, who is responsible for approval or rejection of the data relating to blindness.

When the State Supervising Ophthalmologist considers that the original examiner has overlooked some pertinent

information, both the original and duplicate forms (PA-701 or PSD-87) will be

returned to the county department so that the examining ophthalmologist or optometrist can give additional data. After the review and final decision of the State Supervising Ophthalmologist, one copy of the report will be forwarded to the county department to be incorporated in the case record. The other copy will be filed in the State office.

For assistance purposes, blindness may be said to continue until re-examination establishes that the recipient has vision in excess of that in the State's definition. Re-examinations are necessary to establish continued eligibility only under the following conditions:

1. Re-examination has been recommended by the eye examiner or the State Supervising Ophthalmologist on the report form.

2. The person has had treatment or surgery.

3. The worker notes an obvious improvement in the person's vision.

Re-examinations will be submitted to the State Department and handled in the same manner as original examinations. When an AB case which has been closed is later re-opened, a re-examination is not always necessary. However, when a re-examination does not seem necessary, the original examination form must be resubmitted to the State Department for the State Supervising Ophthalmologist's approval of the blindness factor. If the State Supervising Ophthalmologist recommends a re-examination, one must then be made.

III. *Aid to the Permanently and Totally Disabled.*

County departments submit to the State Department medical and social information which is the basis for making the decision as to whether a person meets the criteria of permanent and total disability. A State review team is responsible for reviewing this medical and social information and for making all decisions as to whether persons are permanently and totally disabled. This team is composed of a State supervising physician, a qualified social worker, and consultants from other fields as needed. (Refer to *Alabama's Public Welfare Organization and Functions* for criteria used by the review team in making decisions as to permanent and total disability.)

Given below are definitions of: (1) permanent and total disability; (2) permanent disability; (3) total disability; and (4) useful occupation.

A. *Definitions.*

1. *Permanent and Total Disability*—An individual must be both *permanently* and *totally* disabled for engaging in any useful occupation within his competence.

2. *Permanent Disability*—Medical findings must be available to establish permanent disability. A permanent disability is a serious physiological or anatomical or mental condition which is not likely to improve and which will likely continue throughout a person's lifetime.

Although a person may be diagnosed as having a permanent impairment, he sometimes responds favorably to treatment after an unfavorable prognosis. The discovery of new drugs or other advances in medical treatment are potentials which may change a permanent impairment.

Pending the actual improvement, however, the person will be considered as permanently disabled.

3. *Total Disability*—Both *medical* and *social* information must be available to establish total disability. The total disability must appear to be permanent and must result from a permanent impairment(s) before a person can meet the State's criteria. The review team establishes this factor by considering the permanent impairment in relation to the activities which would be required of a person who is going to engage in paid employment either in cash or in kind, in homemaking, or in performing some other type of useful service for others without pay. In other words, medical data and social data are considered jointly in establishing total disability. The counsellor carries the responsibility for providing social findings. (See "Social Data" later in this section.)

4. *Useful Occupation*—Useful occupation is working at a job of making things or of rendering service to others. A person is considered as engaged in a useful occupation; if:

a. He works for pay, either in cash or in kind;

b. He performs services for others, either within or outside the home, without compensation; for example, homemaking duties. Homemaking involves home-management and decision-making responsibilities, as well as providing essential services within the home for at least one person in addition to oneself.

A person is ineligible for APTD, regardless of how little he earns, if he is able to work for pay in cash or in kind or is in fact working. (See "Exception" under "Automatic Bar to Aid" below.) Also, a person is ineligible for APTD if (1) she (he) is performing regularly major homemaking duties for another;

(2) she (he) is able to perform major homemaking duties regularly for others, such as her husband and/or minor children who live in the home with her; or (3) he (she) is performing some other useful service for another without pay.

Note: A home-bound person who is accepted for training with reservation by VRS and who is selling articles may continue to receive APTD for as long as six months if:

a. VRS has not made a final decision that training is feasible for the person;

b. The products which he makes are generally below standard;

c. There is no real market for the products and they are sold irregularly to friends and interested persons. (Usual budgeting principles regarding income will be followed.)

B. *Automatic Bar to Aid*—The county department will automatically disapprove an application or close a case in the following two instances, as no medical information is necessary.

1. A person is working for pay in cash or in kind. The work may be full-time or part-time. It may be performed regularly (daily, weekly, or monthly) or it may be performed irregularly, as odd jobs.

2. A person is performing regularly all major homemaking duties for at least one person in addition to herself or himself. (*Note*: If all duties are not performed regularly, medical and social data must be sent to the State Department for a decision by the review team.)

Exception: Send to the review team medical and social information on a person who states that he should and would stop working if he could receive APTD.

C. *Medical Data*—There must be an examination and diagnosis by a legally licensed doctor of medicine or a legally licensed osteopathic physician to establish a person's permanent and total disability. "Doctor" or "physician" when mentioned in this section always refers to a legally licensed doctor of medicine or to an osteopathic physician.

Medical information is frequently available from such sources as mental hospitals, mental health clinics, county health departments, cancer control clinics, VRS, CCS, and VA. Reports from these agencies can often be used instead of PSD-79, which is the pensions

and security department's examination form for the APTD category. Do not authorize the use of PSD-79 until clearance has been made with agencies to which the person may be known. If information regarding the person's impairment(s) is available from one of these sources, submit it to the State Department in lieu of PSD-79. Attach to the medical findings PSD-80 Revised, the pensions and security department's form for recording social data only, and additional social data.

If adequate medical information cannot be secured from the above sources, require the applicant (or sometimes recipient) to have a current physical examination made. When public facilities for examinations are available, the applicant/recipient must take advantage of them before PSD can pay for the examination as an administrative expense. If such facilities are not available, he may go to the physician of his choice for examination.

D. *Cost of Examination*—When a person must have a current examination to establish either initial or continuing eligibility, the pensions and security department will pay

the cost of one examination as an administrative expense up to the maximum fee.

Sometimes a person wishes to have a second examination made because he is dissatisfied with the review team's decision. The pensions and security department cannot pay the cost of such an examination unless (1) the applicant's physical or mental condition has obviously changed, or (2) at least a year has elapsed between examinations.

E. *Current Physical Examination Made*—When PSD-79 is necessary, have only one copy completed. If the client signs this form by mark, the mark must be witnessed. The counsellor fills in the section of the form provided for social information before sending the form to the physician. The director signs the form and indicates on it whether or not the department of pensions and security will pay for the examination. Form PSD-109 is completed and attached to every PSD-79 and then the form is mailed or given to the examining physician of the person's choice. (See Part II of the manual for additional instructions for completing PSD-79 and PSD-109.)

F. *Social Data*—The counsellor has responsibility for providing the review team with adequate social data. In most cases, no decision as to total disability can be made without social data which describes the individual's education and work history, activities required of him in his home or on his last job, living conditions, interests, native capacities, and extent to which he has adjusted to the loss he has sustained. The nature of the social data must provide a sufficient base to enable the review team to relate the medical findings to the types of activity the individual is competent to perform.

Sections I of PSD-79 and PSD-80 provide limited space for needed social information. *Unless a person is a complete invalid, the counsellor must attach an additional sheet in order to give full social information.* Specific, concrete terms should be used rather than general, vague ones. Also, everyday terms should be used instead of medical terminology. The worker's observations are needed; therefore, adequate social data usually cannot be provided until after a home visit is made. Given below are types of useful social information.

1. What is the full name, date of birth, marital status, home address, and case number?

2. What is the last school grade completed? What other training, if any, has the person had? Has he used this training? If not, why not?

3. What are the details of the person's employment history? Give specific information about his most recent employment, with date, indicating in detail activities required to carry out this job. If no longer working, state why.

4. Is this person a homemaker? (See "homemaking" under "Useful Occupation.") If so, give the following information as a basis for making a decision:

a. Number of persons for whom homemaking duties are performed, along with the ages and brief descriptions of the physical conditions of these persons.

b. Size and locality of the home.

c. Availability of labor-saving devices—If labor-saving devices are not available, a homemaker may have to perform such duties as carrying water, carrying fuel, and building fires.

d. Regularity and predictability of performance of homemaking duties.

e. The actual duties performed—Among the major activities of homemaking are the following: shopping for food and supplies; planning and preparing meals; washing dishes; cleaning house (sweeping, mopping, dusting, moving furniture); making beds; washing and ironing clothes. In addition, if the care of young children is within the homemaking responsibilities, homemaking duties will include the following: bathing and dressing young children; lifting and carrying infants, and in an emergency, pre-school children; training and supervising children; accompanying children to community activities, etc.

5. Does the person's illness affect his appearance? If so, give a full description. If no handicap is observed, make a statement to that effect.

Many diseases, such as arthritis, heart trouble, high blood pressure, and rheumatism are not disabling in a mild form. For example, medical findings may show "arthritis" without specifying the degree of handicap. This disease might or might not be disabling. If the counsellor knows that the person's hands are drawn, that he cannot walk without assistance, etc., these recorded observations, when taken with medical findings, will help the review team reach a decision as to permanent and total disability. It is, therefore, most important that both medical and social information show the extent of the disability.

6. What is the person's environmental situation? Give information such as the following: (a) number of persons in household; (b) relationship to applicant; (c) general statements as to their ages and occupations; (d) type of house, number of rooms, and general condition; (e) location of home.

7. How does the person spend his day?

8. How does the person feel about his disability? What efforts has he made to adjust to it?

9. What is the client's status with VRS? If he has been denied service by that agency, why? If he has been accepted, what type of service will be given and what plans have been made? If he has not been referred, why not? If future referral is to be made, when? (See section later on VRS.)

For a person who is mentally ill or mentally retarded, carefully given social data is of particular importance. In addition to the previously suggested social data, the counsellor should include information such as the following:

1. Does the person have a legal guardian?

2. Was school grade completed because of ability to learn or because of social promotions? At what age did the person leave school? Can he read and write?

3. Has the person been institutionalized, or have any special studies been made regarding his mental condition? If so, what were the diagnoses or findings?

4. If the person has had employment, how adequately did he perform on the job? Was close supervision needed?

5. Is he able to perform any household tasks? How much supervision must be given?

6. Does he bathe, dress, and feed himself?

7. Is he oriented to time and place?

8. How does he behave outside the home? Is he able to go about the community alone? Can he go on errands without getting lost? How is he regarded in the community?

9. Does the person exhibit any peculiar behavior, such as periods of extreme excitement or sadness without apparent reason? Is he unable to control his own feelings and does he disregard the feelings of others? Is he suspicious of others and does he try to avoid contacts with others? Does he relate experiences or events which seem to be unreal or imaginary?

G. *Establishing Continuing Eligibility on the Basis of the Disability Factor.*

It is the counsellor's responsibility to see that re-examinations are made and submitted to the State Department when they are necessary to establish continuing eligibility. Re-examinations must be made under the following conditions:

1. When recommended by the review team.
2. When the client has had surgery or treatment.
3. When the counsellor notes an improvement in a condition previously diagnosed as a permanent impairment.

It is also the counsellor's responsibility to submit new social information to the State Department when there are changes which may have a direct bearing on a recipient's continued eligibility for APTD. For example, the counsellor may find that a recipient has new or increased abilities due to changes in environment, training, education, or adjustment to his impairment. If so, the counsellor submits to the State Department a new PSD-80, giving his observations and other current social information. The review team will make the decision as to whether the person still meets the criteria of total disability. In some instances, the review team may recommend a new physical examination.

When the county department submits current medical and/or social information to the State Department for

review, the counsellor should always attach to it the form(s) on which the review team made previous decisions.

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Section IV

Vocational Rehabilitation Service

The purpose of vocational rehabilitation is to enable disabled persons to become self-supporting by preparing them for and placing them in suitable gainful employment. This includes home makers or home managers or persons performing homemaking chores in their own homes. There are persons who, although permanently and totally disabled, may return to self-support through training for a different type occupation. For this reason, close cooperation should be maintained with VRS. The worker must discuss services offered through VRS with all persons for whom rehabilitation seems indicated.

The pensions and security department will *clear routinely* (unless it is known with reasonable certainty that a person has had no contact with VRS) with the VRS counsellor serving its district on each disabled person potentially eligible for APTD, ADC or AB as to whether or not the person is known to that agency. It should be possible for the VRS counselor to obtain this information from his files without delay. If the VRS counsellor has previously had the applicant examined, he may permit the pensions and security department to use the medical report, as well as his observations about the applicant's physical and mental condition If there is a case of emergency or a delay in securing medical information from VRS the pensions and security department may pay for the applicant to have an examination.

When the two agencies work together on a case, the VRS counsellor may review social and medical information in the pensions and security department. If the physician and applicant/recipient agree, VRS may have a copy of medical information in the pensions and security department's record. Also, pertinent social information relating to the disability may be summarized for the VRS counsellor.

The pensions and security department will require as a condition of eligibility in *ADC, AB and APTD*:

1. That a person accept referral to VRS, when indicated;

2. That he accept diagnostic services, training, and/or employment offered through that agency;

3. That, if VRS has trained him, he accept employment unless his physical condition has changed so that he cannot work. Ordinarily, this would include accepting work in another locality, if necessary to secure employment.

Should a person fail to keep two appointments with VRS without good reason, the county department would consider this failure to comply with agency policy.

(See the paragraph on VRS under "Deprivation of Parental Support" later in this chapter for discussion of referral of a disabled mother.)

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Persons falling into the classifications below usually will *not* be referred to VRS:

1. Mentally retarded persons who cannot take care of their personal needs, or who require the services of an attendant because unable to avoid the common dangers of life.

2. Psychotics who have been in and out of mental hospitals for more than three times.

3. Persons who use alcohol or drugs to such an extent that they are generally known at the present time as alcoholics or drug addicts. Individual cases may be discussed with VRS.

4. Persons with diseases which medical diagnosis indicates will grow progressively worse; for example, advanced cases of cancer, Parkinson's disease, and multiple sclerosis.

5. Persons with extensive heart disease with bed-rest or home-bound restrictions.

6. Persons who are already employable. If, however, these handicapped persons are unemployed, they may be referred to VRS for assistance in locating suitable employment.

7. Persons who have lately been found not eligible for rehabilitation services.

Persons over 65 years of age should be referred to VRS provided they have good work experience, fair educational qualifications, mental alertness and the prospect of being able to work for several more years.

The policies of the pensions and security department require that a person accept *diagnostic services, training and/or employment only.* (This does not apply to persons 65 years of age or over.) If VRS recommends treatment for a person's rehabilitation the worker should point out to the person the advantages of taking treatment. The refusal to accept treatment, however, will not bar the person from receiving aid.

Permanently and totally disabled persons who are accepted with reservation by VRS for physical restoration or training and who meet the criteria for aid under this category can receive aid until VRS can predict that the

person's program will be successful. Frequent contacts should be maintained between the worker and the VRS counsellor during the period in which there is question as to the success of the person's program. The county department should check with VRS at the end of three months, as VRS should generally be able to make a decision by that time.

When a person is accepted for training by VRS without reservation, he is immediately ineligible for APTD. He can receive ADC, however, until he can engage in full-time available employment. His eligibility for AB is not affected by his being accepted without reservation by VRS.

Section V

Publicly Soliciting Alms

A recipient of AB cannot publicly solicit alms and continue eligible. "Publicly solicit alms" is construed to mean wearing, carrying or exhibiting signs denoting blindness to secure alms, or carrying receptacles to secure alms or doing of same by proxy; or stationary or house to house begging or any other means of publicly securing alms, such as singing, dancing, or playing musical instruments on the streets. If a person has items for sale, such as peanuts, pencils, newspapers, razor blades or novelties and can produce sufficient evidence from proper sources in proof of his intention to support himself, this shall not be construed as publicly soliciting alms.

Section VI

Determination of Other Factors Relating Particularly to Aid to Dependent Children

If aid is to be given, a child must have been deprived of parental support or care by reason of death of one or

both parents; physical or mental incapacity of one or both parents; continued absence from the home of one or both parents.

I. *Purposes of ADC Program*

The purposes of the ADC program are:

A. To ensure basic financial assistance to needy children deprived of the support or care of one or both parents because of death, physical or mental incapacity, or continued absence from the home; and

B. To strengthen families so that children may have an opportunity:

1. To grow up in a setting of their own family relations;

2. To have the economic support and services they need for health and development;

3. To receive an education that will enable them to realize their capacities; and

4. To share in the life of the neighborhood and community.

II. *Living in Home of Relative and Grantee Relative Defined*

A. *Living in the home with the grantee relative*

The child must be living in the home with the grantee relative and his presence there must be factually established. Whenever possible and safe, children should grow up in the home of their parent(s). Whenever it is socially sound, county departments should make every effort to reunite children with their parents.

Temporary absence from the home of either the child or the grantee relative does not affect eligibility, provided the absent person has not established a permanent home elsewhere. The exercise of parental control and guidance by the relative, rather than the physical presence of the relative or the child in the home, is the important factor. For example, a child may be absent from his home for the purpose of attending school, on visits, or because of hospitalization or illness, and still maintain his permanent home with the grantee relative. Likewise, a relative may be absent temporarily on business or visits or because of illness and still maintain his permanent home.

B. *Persons Who May Serve as Grantee Relatives*

The grantee relative must be of a specified degree of relationship to the child and this relationship must be factually established. In case of blood relatives, relatives of the half-blood qualify as well as relatives of the whole blood. A relative who has once been "in-law" or "step" may serve as grantee relative even though the marriage has been terminated by death or divorce.

Given below are persons who may serve as grantee relatives:

1. *Female*: Mother, adoptive mother, stepmother (but not her parents); sister, adoptive sister, stepsister, sister-in-law; aunt, great-aunt (including great, great, etc.), aunt-in-law; grandmother, stepgrandmother (meaning the subsequent wife of the child's natural grandfather), great-grandmother, adoptive grandmother (meaning the mother of a parent who was adopted); niece; first cousin.

2. *Male*: Father, adoptive father, stepfather (but not his parents); brother, adoptive brother, stepbrother, brother-in-law; uncle, great-uncle (including

great, great, etc.), uncle-in-law; grandfather, step-grandfather (meaning the subsequent husband of the child's natural grandmother), great-grandfather, adoptive grandfather (meaning the father of a parent who was adopted); nephew; first cousin.

III. *Definition of Legal Parent and Legal Responsibility of Parent for Support of Children*

A. *Legal parents are defined as follows:*

1. Father and mother of a child born of a valid marriage.

2. Legally adoptive father or mother.

3. Father where paternity has been legally established.

4. Mother of a child born out of wedlock.

The legal definition of a parent is used when support is being sought through court, except when the establishment of paternity and support are being sought under Title 27, Sections 12(1)-12(9), Code of Alabama 1940, as amended.

B. *Legal Responsibility of Parent for Support of Children*

Alabama law holds the father and mother equally responsible for the support of children under 18 years of age. The fact that parents are divorced or legally separated and custody granted to one parent does not necessarily release the other from his responsibility for support. Whether children live with their parent(s) or other relatives, verify whether or not the parent(s) can provide for his children.

IV. *Child Ineligible if in Home of Two Able-Bodied Parents*

If children live in the home of two able-bodied parents, ADC cannot be given even though there may be no source of income. By regulation, a stepfather or stepmother is considered a parent under this policy. (Also, see discussion below of father and mother substitute.)

If the father, even though disabled, has full-time remunerative employment, aid cannot be given. (See discussion of full-time remunerative employment for a disabled father under "Physical or Mental Incapacity.")

V. *Child Ineligible if There Is a Father or Mother Substitute*

A. *Father Substitute*: An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, an application will not be approved, or a case will not be continued eligible, unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the

substitute father is no longer living in the home or frequently visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately.

The mother of an illegitimate child applying for ADC must, under oath and in writing, give the name and last known address of the father of the child if the child is one year old or under. If she is unable to name the father of an illegitimate child one year or under, she must, under oath and in writing, set forth her reasons for not knowing who is the father of her child. In either

of the preceding instances, she must present two acceptable reference statements, as previously described, to establish that the relationship with the "father" is broken.

The counsellor will prepare the necessary affidavit for the mother to sign and have notarized. (It can be notarized by a staff member of the county department.) If she refuses to sign it, she will not be eligible for aid.

B. *Mother Substitute*: If a child's natural or adoptive father cohabits with a woman *who lives in his home,* she is considered a substitute mother of all the children in his home. The woman's pregnancy or having a baby six months or under is prima facie evidence that she is cohabiting with the father in whose home she is living.

When there appears to be a substitute mother *living in the home,* an application will not be approved or a case will not be continued eligible unless the father establishes that one of the following situations exists: (1) he and/or the substitute mother meets the criteria of disability as described under "Physical or Mental Incapacity"; or (2) the substitute mother is no longer living in the home.

Evidence showing that the substitute mother has moved out of the father's house includes proof such as: the mother has married another man; or she is in a public institution; or she is living at another address; or a notarized statement by the father and substitute mother that she is no longer living in his home. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the father will be given 30 days to present his evidence before his application is disapproved

or his case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the father, the worker will assist in any way possible to help the father establish that the substitute mother is no longer in the home. Also, before rejecting an application or closing a case, the worker will talk with the father about reasons for the agency's action and about his right to reapply at any time that there is no longer a substitute mother in the home. If the family is otherwise eligible, the case should be recertified for aid immediately.

Note: When an application is rejected or a case closed because of a substitute father or mother or for any other reason and the county has a commodity program, the parent should be advised to reapply for commodities under the category of "Other." If the parent meets the requirements, he (or she) can receive the commodities.

VI. *Deprivation of Parental Support or Care*

A needy child, even though deprived of one parent's support or care by reason of death of one or both parents; physical or mental incapacity of one or both parents; or continued absence from the home of one or both parents is not automatically eligible for aid, as other requirements must be met.

A. *Death*

Consider a child deprived of paternal support by reason of the father's death if:

1. There is no able-bodied stepfather in the home; *or*

2. There is no able-bodied father substitute as described earlier; *and*

3. The natural or adoptive mother is unable to meet the child's needs according to agency standards.

Consider a child deprived of parental care by reason of the mother's death if the legal father with whom the child lives is unable to meet the child's needs according to agency standards, unless:

1. There is an able-bodied stepmother or able-bodied substitute mother in the home. (See definition of substitute mother earlier.)

2. The father's work is at home or there are older children (16 to 18) only, and there appears to be no need for a caretaker.

Establish factually the death of a parent through such sources as:

1. Death certificate.
2. Physician's record.
3. Mortuary, cemetery, or insurance records.
4. Family Bible.
5. Diaries or letters.
6. References.

B. *Physical or Mental Incapacity.*

Consider a child deprived of parental support or care because of a parent's incapacity under one or both of the following conditions:

1. The *father,* normally the breadwinner, is totally or partially disabled for any full-time remunerative employment within his competence, which exists within the community, and which is available to him. Even though he may work the full number of hours or days required by a particular job, his incapacity

limits his performance and earnings as compared with those of the average worker on the same type job. Father in this instance applies to the legal father, stepfather, or father substitute.

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Sometimes a medical statement may describe a father as disabled, but he is, nevertheless, able to work at some full-time employment of a type which exists within the community and which is available to him. If the disabled father can secure such work, his children cannot be considered eligible on the basis of his disability alone. The children, however, should not be denied aid if the only jobs which the disabled father can do are filled or are otherwise not available to him.

Farm day labor is considered full-time employment only if the parent is hired on a monthly salary basis and has to be available to his employer on all ordinary working days.

2. The *mother,* normally the one who gives care, is incapacitated and her illness causes additional expenses for: (a) securing care for the children or for herself; or (b) regular medical care prescribed by a legally licensed physician.

Old age within itself does not constitute incapacity and the fact that a person is receiving OAP does not automatically qualify his children for ADC. The incapacity must be as specific in an old person as it is in a person of any other age.

C. *Continued Absence from the Home*

Continued absence from the home refers to a legal parent who:

1. Is divorced.

2. Is separated.

3. Is in a correctional or penal institution.

4. Is hospitalized past a temporary period for treatment of physical or mental disease.

5. Has without lawful excuse deserted, willfully neglected, or refused to provide for the support of children under 18 years of age.

Do not consider a child deprived of parental support or care by reason of the legal parent's continued absence from the home if:

1. The parent has not deserted the family but is only working in another locality or has left home to seek work in another locality and keeps in touch with the family.

2. There is living in the home an able-bodied stepmother or mother substitute where the absent parent is the mother; or

The father's work is at home or there are older children (16 to 18) only and there appears to be no need for a caretaker.

3. There is an able-bodied stepfather or father substitute living in the home, where the absent parent is the father.

4. The child is living with a grantee relative other than a parent and the condition below exists:

The parents have left the children in the home of relatives because of convenience to themselves but are maintaining contact with the children. That is, the parents are living elsewhere together

but leave the children with other relatives either because the parents do not wish the responsibility for the children or the relatives wish to keep the children.

If one of the absent parents is mentally or physically incapacitated or has deserted, the children may be eligible in the home of the relative, since they might be eligible in the parent's home, provided need exists. They would not be eligible, however, if there is an able-bodied stepparent in the home with an able-bodied parent or if an able-bodied parent lives without benefit of marriage with an able-bodied parent substitute; that is, unless the child is living with an own parent in Alabama.

Some methods of verifying continued absence from the home are:

1. Require the remaining parent to furnish information about how long the absent parent has been out of the home, ways he may be located, and what efforts have been made to locate him.

2. Secure verification from such sources as other relatives, previous employers, landlords, neighbors, and lodges.

VII. *Policies and Procedures in Relation to Absent Legal Parent.*

A. *Purposes of Locating an Absent Legal Parent.*

The purposes of locating an absent legal parent are:

1. To try to get support for his children.

2. To try to effect reconciliation or re-establish communication between him and his family when this appears desirable.

B. *When to Make Intensive Effort to Locate and Interview Deserting Parent.*

Make an intensive effort to locate a deserting parent and to interview or have him interviewed when:

1. The desertion has occurred within the past year.
2. There have been contacts between the absent parent and his family during the last year.
3. Available facts strongly indicate that he can support his child or there is a possibility of reuniting the family.

Note: If a parent has been absent from home for one year or longer and there have been no communications (or insignificant ones) from him during his absence, there is little likelihood of renewed contracts or reuniting the family. In these cases usually concentrate efforts on trying to learn his address through correspondence in order to secure support under the Desertion and Non-Support Act or Uniform Reciprocal Support of Dependents Act.

C. *Steps in Locating Absent Legal Parent.*

Since the father is more frequently the deserter, "father" is used interchangeably with absent parent. The same policies and procedures apply, however, when the absent parent is the mother. (When the mother is married and the child considered legitimate but it is known that the husband is not the child's natural father, *do not contact the husband* unless it is to the best interest of all persons concerned.) Follow the steps below:

1. Talk to mother or other grantee relative about:
   a. How long father has been out of the home.
   b. Father's present living arrangements, including marital status.

c. Mother's interest in, and possibility and desirability of, a reconciliation with the father. If this is out of the question, is there any interest in, and possibility and desirability of, re-establishing communication between family and deserting parent?

d. Father's present employment, ability to contribute to children's support, any support payments he makes and whether they are voluntary only or are made in accordance with an informal agreement or court order. (See discussion of informal agreements, etc., later.)

e. Reason for and her permission to give notice to law-enforcement officials. (See discussion of this later.)

f. Agency requirement that she try to obtain support through Desertion and Non-Support Act or Uniform Reciprocal Support of Dependents Act when law-enforcement officials recommend a suit or when father's whereabouts is known and the *agency's investigation* reveals he can contribute but (1) he refuses to do so; or (2) he contributes less than he appears able to contribute according to agency budgeting standards; or (3) he fails to carry out an informal agreement or previous court order. Failure of the remaining parent or other grantee relative to cooperate fully will result in ineligibility.

2. If mother (or other grantee relative) cannot furnish address or other helpful information in locating father, try such sources as: other close relatives, friends, former employers, lodges, or other local sources. Failing to locate father in these usual ways, use the following methods:

a. If available information indicates this parent now owns an automobile or owned one during the year before the current year, send PSD-140 to the Motor Vehicle Division, Alabama Department of Revenue, Montgomery, Alabama. (See Form and instructions in Part II of the manual.)

b. If available information indicates this parent has within the last 1½ years worked in any industry covered by unemployment compensation (employing 4 or more persons), send Form PSD-139 to the Chief of Benefits, Unemployment Compensation Division, Alabama Department of Industrial Relations, Montgomery, Alabama. A referral *should not be made* on self-employed persons, governmental employees (city, county, State, or Federal), farm day laborers, domestics, and railroad employees, since no records on such persons are available in the Department of Industrial Relations. (See form and instructions in Part II of the manual.)

c. Send PSD-136 to the Drivers License Division of the Alabama Department of Public Safety, Montgomery, Alabama. (See form and instructions in Part II of the manual.)

d. If parent is a veteran, follow procedure in Administrative Letter No. 1907.

e. If verification cannot be secured otherwise, send PSD-95, Revised December 1965, Request From Public Assistance Agency, directly to the Social Security Administration, Bureau of Data Processing and Accounts, Baltimore, Maryland 21235 provided the following conditions exist:

(1) The parent is under a court order to support at least one child under sixteen years of age;

(2) The child is an applicant for or recipient of public assistance under one of the public assistance titles of the Social Security Act or under general assistance (temporary aid in Alabama);

(3) The department does not have information on the parent's whereabouts during the past eight months (SSA usually does not have more current information);

(4) The department has tried without success to obtain the address from all other sources reasonably available to it, and the information received will be used by the agency and the court issuing the order only for the purpose of obtaining support and maintenance.

PSD-95 should be prepared in duplicate and the original with a certified copy of the court order mailed to the Social Security Administration. The duplicate of PSD-95 *must* be retained in the county department and used first as a control until a reply which should be placed in the case record is received. Then the duplicate should be placed in the correspondence file on deserting parents.

When the above efforts have proved to be fruitless, consider that the agency has exhausted sources from which the address of a deserting parent may be obtained and terminate efforts to locate him. In succeeding years, ask the remaining parent, other grantee relative, and/or reference if the absent parent's address is now known and explore fully any further clues.

Include in the case record information showing action taken, information obtained, results achieved, and, for appropriate cases, the reasons for not making intensive efforts to locate absent parents. It is important that all cases where steps have been taken to locate deserting parents be easily identified for making required reports and for reading by the field representative for consultation. For purposes of identification *only,* retain in an easily identified separate folder an extra copy of a letter written or a form sent on each such case, whether inter or intra state.

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Co-operate fully in making investigations and furnishing information requested by other county departments and by out-of-state agencies.

3. If the father's address is secured, try to determine his ability and willingness to contribute to his child's support and the possibility of a reconciliation or reestablishment of communication between family and absent parent when this appears desirable.

When the father is within the community or within Alabama, have a representative from the department of pensions and security interview him. When he is out of the State, write to him; if no reply, or an inadequate one, is received within 30 days, write to a social agency where he lives to interview him. (See Chapter Five for further information about letters to other agencies concerning deserting parents.)

D. *Approaching Support From Legal Parent Without Court Action.*

The following are ways of approaching the support problem *without court action*:

1. Informal agreements reached by a deserting parent in cooperation with the grantee relative and judge or solicitor on an amount he will make to the support of his children. Budget this amount, even though smaller than that required according to budgeting standards.

2. Agreements between the deserting parent and the grantee relative and/or the county department, provided the contribution agreed upon is an amount in keeping with agency budgeting standards. If it is found that the parent is unable to contribute, this is satisfactory.

Measuring Extent of Absent Legal Parent's Liability for Support—Use agency budgeting standards (ADC) to measure the absent parent's needs and income/resources. If he has remarried, consider his needs and those of his present spouse, the children by that union, and his children by a previous marriage, if living in the home with him or if he presents evidence that he is supporting legal children elsewhere. For spouse and his children in the home, also count their income/resources. If he is living with another person without benefit of marriage, consider his needs and income/resources only. Before putting income/resources into the trial budget, if one or more of the expenses below exist, subtract payments which must be made on them:

a. Medical expenses or hospitalization of any person in the trial budget or for legal children being supported elsewhere.

b. Emergency expenses (resulting from disasters, as fire) of any person in the trial budget.

c. Burial expenses for spouse or legal children.

d. Payments on household furniture and appliances in which there is already equity toward the purchase price.

e. Mortgage payments on a home within the homestead limitation. (Only the amounts above that in the budget(s) would be subtracted.)

After payments on the above expenses have been subtracted, show all remaining income/resources in the trial budget. When the trial budget shows surplus income/resources, expect him to make the surplus available for meeting his children's needs. If he refuses, require the remaining parent or other grantee relative to go to the appropriate court. Pending the decision of the court, budget only the figure the parent is contributing. When the decision is reached, budget the amount ordered by the court. If the amount ordered is not paid, refer to "Use of Court Action Against Legal Parent" below relating to when court action is necessary.

3. Court action has already been taken and it is determined that no additional support can be secured.

Note: Under Alabama Law, a legal parent is responsible for meeting *all*, rather than a part, of his children's needs if he can do so. Therefore, the income tax policy does not apply to the legal father and it is not necessary for the Internal Revenue Department to be notified that he is not meeting one-half of his children's needs if he claims them. Budget only the amount a legal father absent from the home is actually contributing, unless the court, either by court action or informal agreement, specifies an amount to be paid. Then, budget the amount specified. If the amount specified is not paid, require the mother or other grantee relative to report this to the court. If she complies, budget only the contribution actually being made. If she does not report to the court, discontinue ADC.

E. *Use of Court Action Against Legal Parent.*

Court action is necessary in the following situations and the remaining parent or other grantee relative, as a condition of receiving ADC, must go to the proper court to file proceedings and must testify in court when:

1. Law-enforcement officials recommend a suit; or when

2. The whereabouts of the deserting or abandoning legal parent is known; and

3. The county department's investigation shows that the legal parent who has deserted or abandoned:

a. Is able to contribute to the child's support, but refuses to do so or contributes less than he appears able to contribute according to agency budgeting standards; *or*

b. Fails to carry out the informal agreement for support payments reached by him, the judge or the solicitor, and the remaining parent; *or*

c. Fails to carry out a previous court order.

Note: Court action is not required if the remaining parent or other grantee relative would have to pay a fee.

Given below are two Acts used to secure support from *legal* fathers:

1. *Desertion and Non-Support Act*—The Desertion and Non-Support Law (Title 34, Sections 89-104, Code of Alabama 1940, as amended) is used when the deserting parent is in the State. In some counties exclusive and original jurisdiction over cases of desertion and non-support is vested in the Probate Court. In others, it is vested in other county courts. A few

counties have special juvenile and domestic relations courts created for the purpose of handling juvenile and domestic relations cases.

2. *Uniform Reciprocal Support of Dependents Act* —The Uniform Reciprocal Support of Dependents Act (Title 34, Sections 105-123, Code of Alabama 1940, as amended) is used when the deserting parent is out of the State. The Circuit Courts in Equity exercise exclusive and original jurisdiction in all cases arising in proceedings under this Act.

The county department must make a thorough investigation of ADC non-support cases before court hearings and a worker must be present at the hearings. The worker must have current information as to the employment and financial situation of the father.

The applicant/recipient may initiate proceedings either in the county where she lives or in the county where the deserting parent lives. In the event proceedings are initiated in the county where the deserting parent lives, request a representative of the county department to be present. Usually it is preferable for the applicant/recipient to initiate proceedings in the county where she lives.

If the applicant/recipient initiates proceedings under either of the above Acts, do not withhold ADC pending action by the court.

When the court orders a payment which is not sufficient to meet the family's budgeted needs, grant ADC as a supplement if other eligibility requirements are met. If it is factually established that the amount ordered by the court is not being paid and the applicant/recipient reports this to the court, budget only the amount being

paid. The client may make this report by going to the court or by writing to the appropriate court official. If the client does not report to the court, discontinue ADC.

If the parent or other grantee relative (or other person having legal custody) is advised by the judge or other appropriate court official against instigating court proceedings, consider that he has done all he can and require no further action, unless additional information indicates that new action should be taken.

F. *Notice to Law-Enforcement Officials—Legal Parent.*

1. *When to Send the Notices*—When aid is granted to a child who appears to have been deserted or abandoned by a legal parent, provide prompt written notice of this to appropriate law-enforcement officials. Report all such cases even though (a) the whereabouts of the parent is not known or (b) it is known that he cannot contribute. This is in keeping with the Federal Social Security Act, as amended, Title IV, Section 402 (a).

Send these notices as early as possible during the month following the payment of assistance. Make two copies of the notice, one for the law-enforcement official and one for the case record. Make additional copies if there is an agreement to send notices to more than one official. Use PSD-93 for this purpose.

2. *Parents on Whom Notices Must Be Sent*—Report parents who are legally responsible under Alabama law. These are the *natural* or *adoptive* parents of a child. A natural parent includes the father of a child born out of wedlock, if paternity has been *legally* established. It does not apply to a step-parent.

If children in an ADC family unit have different parents, send a notice for each situation involving a different parent. For example, a mother may have

had children by two different husbands, both of whom may have deserted or abandoned children. As another example, an aunt may be the grantee relative for two groups of children with different parents.

3. *Informing Applicants/Recipients of the Requirement.*

During the application process, inform each applicant affected by this provision that the agency is required to notify law-enforcement officials if assistance is paid. Notification is not required when the application is withdrawn or when the applicant is found ineligible. If a recipient is affected by this provision, inform him of the requirement so that he may decide whether he wishes his assistance to be continued.

4. *Criteria for Selection of Cases on Which Notices Must Be Sent.*

a. The phrase, "deserted and abandoned by a parent," generally refers to the action of either parent who fails to perform the duties owed to his or her child and leaves the home in which the child lives and is cared for. That is, the parent willfully deserts without "lawful excuse" and without making provision for the support of his children.

b. If the absent parent has left home without provision for the support of his children under circumstances that indicate that he does not intend to return or make provision for the children, assume that desertion has taken place.

c. Proof that a parent has left his child(ren) in destitute or necessitous circumstances or has not contributed reasonably to his support for a

period of 10 days after his departure shall constitute prima facie evidence of willful intention to abandon or desert his child(ren).

d. If there is a divorce decree which makes no provision for support of the child(ren) or if the court order for support is not being carried out, report the situation to law-enforcement officials. This policy will also apply in cases of legal separation. (Legal separation is the same as divorce from bed and board. This type of decree does not permit remarriage.)

e. Sometimes the mother and children have left the father and he states that he will support them if they return, but the mother refuses to return to him. Send a notice to law-enforcement officials, as they may desire to work out some legal arrangement for support of the children.

f. A parent may continue to live in the home with the child(ren) but may refuse to support him. Since this could constitute abandonment, send a notice to law-enforcement officials.

Note: Notices should not be sent in the following situations:

a. When the absent parent has lawful excuse or does not willfully neglect—for example, when he is in prison, in a tuberculosis sanatorium, or in a mental institution.

b. When there is a divorce decree or a legal separation, if a settlement was made and the agreement is being carried out.

c. When the absent parent is an alleged father and paternity has not been legally established.

5. *Responsibilities of County Department and Law-Enforcement Official(s) Differentiated* :

a. *The county department* is responsible for sending notices to law-enforcement officials when situations appear to involve desertion or abandonment. The county department is also responsible for explaining the Federal law to the appropriate official(s) and for explaining the responsibilities of the county department in relation to deserting parents.

The agency must make every effort to secure the information called for on PSD-93, such as present whereabouts, last known address, length of absence, usual occupation, and name and address of last known employer. The information under "Remarks" is also important. Through these notices, the agency will assist in identifying those cases in which action by law-enforcement officials will likely be most helpful. In other words, the notices will contain pertinent information the county department has or can secure as to whether prosecution seems advisable or futile. The agency, however, has no responsibility for making a judgment as to desertion or abandonment. The county department will, as usual, cooperate with the courts in any appropriate way.

If ADC is discontinued, or the absent parent returns to the home or assumes full support of the children, the county department will advise law-enforcement officials of the change in the situation. If the parent later deserts or abandons again, this will constitute a new offense. The county department will again send PSD-93 to the appropriate law-enforcement official.

Should a law-enforcement official fail to take action in a case that the county department con-

siders hopeful as far as securing support, the worker should approach the law-enforcement official again. There is always the possibility that the form has been misplaced or overlooked or that the information given was not strong enough or can be supplemented by later information.

b. *The law-enforcement official(s)* is responsible for identifying situations in which prosecution under the State's law on desertion or abandonment may be warranted. It is his decision as to whether to instigate action. The responsibility of the parent or other grantee relative to initiate action is given elsewhere.

VIII. *Policies and Procedures in Relation to Alleged Fathers*

A. *Purposes of Locating and Interviewing an Alleged Father*

The purposes of locating and interviewing an alleged father are:

1. To secure support.

2. To try to get him to legitimate the child, when indicated, under Title 27, Section 11, Code of Alabama 1940, as amended.

3. To establish paternity and secure support, if indicated, under Title 27, Section 12 (1)—12 (9), Code of Alabama 1940, as amended.

4. To help him remove legal barriers if he and the mother wish to marry.

Note: If the mother is pregnant or has a baby six months or under, see section on "Substitute Father." It may be that the case must be closed or application re-

jected without further effort to establish eligibility for ADC. The counsellor should advise the mother of the legal resources she may have and should render any other appropriate service.

B. *Situation in Which It Is Not Necessary to Interview Alleged Father*

It is not necessary to try to interview an alleged father if doing so would be detrimental to the child, mother, or father and his family. In such instance, record the reasons for not interviewing him and consider deprivation of parental support cleared. This policy will not be applicable when it conflicts with policies relating to substitute parents. (Refer to page II-43, "Interview With the Alleged Father in Establishing Continuing Eligibility.")

C. *Methods of Securing Address of Alleged Father*

Try to find the address of the alleged father through such sources as the following: the mother applicant/recipient or other grantee relative; the alleged father's family or friends; his employer. *Do not use the forms for locating a legal father.*

D. *Interview With Mother or Other Grantee Relative*

Before the alleged father is interviewed, secure from, and give to, the mother or other grantee relative certain information as

set forth below

Talk to the mother or other grantee relative about:

1. The identity of the alleged father of the child;
2. His present whereabouts and address;
3. His current marital status;

4. Whether or not he admits paternity;

5. The present relationship between the mother and the alleged father (if the relationship is *unbroken* and the mother and alleged father are able-bodied, *all* children in the home of the mother are ineligible for aid);

6. His attitude toward the child;

7. His ability and willingness to support;

8. The requirement that she permit the worker to interview the father, unless it would be detrimental to the child, mother, or father and his legal family, if he has one.

If the alleged father is to be interviewed, explain to the mother or other grantee relative that:

1. Efforts may be made to get him to legitimate the child. *Exceptions*: (a) when a mother was legally married at the time of the child's birth, her child is presumed to be legitimate under Alabama law. Ordinarily, do not try to have legitimation proceedings initiated in such a case, as the child would first have to be judicially determined illegitimate before he could be legitimated. (b) the father's current marriage would be jeopardized by legitimation proceedings.

2. If he refuses to legitimate the child, when indicated, the mother or other grantee relative may have to swear out a complaint against the alleged father under Title 27, Section 12 (1)-12 (9), Code of Alabama 1940, as amended. (See discussion below.)

E. *Establishing Paternity and Securing Support Under Title 27, Section 12 (1)-12 (9) Code of Alabama 1940, as Amended*

When an alleged father refuses to legitimate a child, require the mother or other person who has legal custody

of the child to seek the advice of the circuit solicitor or his deputy solicitor or county solicitor as to whether she should swear

out a complaint against the alleged father under this Act, *provided the following conditions are met*:

1. The mother was not promiscuous and, therefore, the identity of the father is known with reasonable certainty. *Exception*: A young mother (generally not over 21) who is seriously opposed to legal action against the reputed father will not be required to go to the solicitor.

2. The alleged father's current marriage will not be jeopardized by a suit to establish paternity.

3. The action will not be harmful to the mother or child.

4. The statute of limitations, usually two years, has not expired (see Title 27, Section 12 (9), Code of Alabama 1940, as amended).

Should the county department have any question about the wisdom of requiring a mother or other person having legal custody to seek the advice of the solicitor, forward the case record to the Bureau of Child Welfare for advice.

When a mother or other person having legal custody has expressed her willingness to go to the solicitor and all points of eligibility have been established, do not withhold approval of the application or discontinue aid because the agency has not definitely determined whether the solicitor should be consulted.

When a mother or other person having legal custody has already talked with the solicitor in line with agency policy, do not withhold or discontinue ADC pending final decision in relation to legal action.

F. *Interview With the Alleged Father*

When an alleged father is interviewed, discuss:

1. Paternity—If he denies paternity and there is no strong evidence that he is the father, consider deprivation of parental support established if no relationship exists between him or any other man and the mother;

2. His attitude toward the mother and child;

3. Their present relationship (if the relationship is *unbroken* and both parents are able-bodied, *all* children in the mother's home are ineligible for aid);

4. His ability and plans to support.

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If the alleged father acknowledges paternity readily or if the preponderance of evidence indicates that he is the father, try to get him to legitimate his child by making a declaration in writing as provided in Title 27, Section 11, Code of Alabama 1940, as amended, unless such action will jeopardize his current marriage or the welfare of the child, or unless the child is presumed legitimate because of the mother's legal marriage at the time of his birth. Explain to him the importance of giving the child legal status so that he has the right of inheritance and other benefits. Also, explain to him that if he legitimates the child, he will have the same responsibility for support as any other legal father.

If the alleged father refuses to legitimate the child, explain the action that may be required of the mother or other person who has legal custody of the child in relation to swearing out a complaint against him.

Note: If every effort has been made to interview the alleged father without success, this is not an automatic

bar to aid. Try, however, to establish factually in some other way what amount, if any, he contributes to the support of his child and/or the mother. Record efforts made to interview the father.

G. *Contribution From the Alleged Father*

Budget the contribution that the alleged father is making or agrees to make. If court action has been taken, budget whatever support was ordered, unless it was a lump sum, in which case consider it in relation to the reserve policy. If court action has been taken and it is factually established that support ordered is not being paid, require the mother or other grantee relative to report this to the court. If she complies, budget only the contribution actually being made. If she does not report to the court, discontinue ADC.

There are instances in which an alleged father absent from the home will claim his child as an income tax dependent, although the Internal Revenue Code prohibits his doing so unless the child has been present in his home during the entire tax year. In such case budget one-half of the child's needs as being met or the actual amount of the contribution, whichever is greater. Two *exceptions* to this policy are given below:

1. After the Internal Revenue Department has been notified of an alleged father's failure to make the required contribution, budget only the amount actually being contributed.

2. If court action is taken under Act No. 295, budget only the amount ordered by the court. If the amount ordered is not paid, follow the procedure given in the preceding paragraph.

Note: In some few counties, where no regular legal proceedings are indicated, law-enforcement officials have of-

fered to try to get support from alleged fathers who have admitted paternity or when there appears to be no question about paternity. Require the mother to take advantage of this resource if it is available.

H. *Interview With the Alleged Father in Establishing Continuing Eligibility.*

If the address of the alleged father is known, interview him each six months regarding his ability and willingness to contribute to the support of his child and/or the mother *unless one of the following situations exists*:

1. The alleged father has denied paternity and there is no strong evidence that he is the father.

2. It has been established that the alleged father cannot contribute to the support of his child and it appears that his circumstances have not changed.

Note: When the record reflects that efforts have already been made without success to get an alleged father to legitimate his child, no further effort need be made to accomplish this. Also, when the record reflects that the agency has determined that the mother should not proceed under Title 27, Section 12 (1)-12 (9), Code of Alabama 1940, as amended, no further effort need be made to accomplish this.

IX. *Vocational Rehabilitation Service.*

If the father, normally the breadwinner, is the disabled parent who appears suitable for referral, always refer him to VRS. If the mother, usually the caretaker rather than the breadwinner, is the disabled parent, consider carefully the advantages of referral in each case. For example, if the mother is disabled, middle-aged, and has had no previous training or experience in employment, it might not be desirable to refer her, unless VRS in that

county has some program to bring to the home or unless there is a rehabilitation program for homemaking.

(See "Vocational Rehabilitation Service," earlier in Chapter Two for detailed policies relating to referral to VRS.)

X. *Employment of Parents and Children*

A. *General Policies.*

It is important that ADC families do all that they can to support themselves. A father must always seek and accept employment in line with his physical and mental ability. A mother, under certain conditions, must also seek and accept work in line with her mental and physical ability.

Likewise, children must seek and take jobs which: (1) do not interfere with their schooling; (2) are not in conflict with State or Federal child labor laws; and (3) are within the physical and mental capacities of the children. In most instances, this will be work available on week ends and during summer vacations. Children as young as 12 years of age may do agricultural or domestic work when it does not interfere with their school attendance.

Subject to the three conditions set out above, a *child's* refusal to seek and accept work that he can do will mean that his needs cannot be included in a budget. A *parent's* refusal to seek and accept employment which he (she) can do will mean that the children are not eligible for aid.

A parent who is able to do some work must furnish evidence of his efforts to locate employment. He must present facts as follows:

1. He has registered with the local office of the State Employment Agency, if there is one. He has

kept his registration current by reporting monthly to the employment agency, in person or in writing, indicating his continuing availability for employment.

2. He has made application to local employers.

3. He has not refused to accept employment in keeping with his physical and mental ability, within reasonable proximity to his home, and which meets average community working regulations as to safety precautions, wages, etc.

If the child is already deprived of the support or care of one parent, consider the income and resources of the other parent in establishing need. The parent's employment itself, however, does not automatically bar the child from aid. Neither is the child automatically barred if two disabled parents work part-time only or have employment that does not meet the definition of full-time remunerative work for disabled persons.

B. *Considerations in Relation to a Mother's Working.*

The mother must work if the following conditions are met:

1. There is a competent person to provide care for the child while the mother works;

2. The mother is physically and mentally able to work;

3. There is no illness in the family requiring nursing care from the mother;

4. The mother is not attending school, including business or vocational school or college;

5. Work in keeping with the mother's physical and mental ability and at average community wages paid

for such work is available within reasonable proximity to the home. This means either within reasonable walking distance or where reasonable transportation facilities are available. The only exception to this policy is when a mother has been trained for a job by VRS. In such an instance, she would ordinarily be expected to move to another locality if necessary.

With school age children particularly, it is likely that the mother can make suitable arrangements to work. In many instances, she will need counselling from the county department so that she, in cooperation with the agency, can reach a decision as to the advisability of her working. In counselling mothers about employment, the worker must be guided by basic principles of child welfare. In all instances a competent person, capable of giving the child proper care and supervision, must be available. Given below are some of the ways in which such care may be provided:

1. Suitable work may be found to enable the mother to remain in the home. This may be sewing, taking in roomers and boarders, washing and ironing, typing, craft work, raising chickens, raising fish bait, etc.

2. There may be in the home or in the immediate vicinity grandparents or other relatives who will care for the children while the mother works.

3. There may be day nursery or nursery school facilities available in the community for pre-school age children.

4. The mother may be able to find employment which pays her enough to hire someone to care for the children during the day.

XI. *Criteria for Evaluating Home Conditions Which May Be Hazardous to Children and Procedures to Be Followed When These Conditions Exist.*

This section is to be used in conjunction with the plan of services for children in Chapter Five of this manual. It is also to be used in conjunction with provisions in *Manual for Administration of Child Welfare Services* which provide protection for all children. (See Chapters I and VIII of the child welfare manual.)

The county department is responsible for : (1) evaluating unsuitable home conditions which may be hazardous to children at the time of application or review, or at any other time that a question arises about home conditions; (2) bringing to bear understanding of human problems and working with the parent or other grantee relative in improving hazardous home conditions and in maintaining more responsible care of children; and (3) initiating court action to remove children from the home in extreme conditions.

A. *Criteria for Evaluating Home Conditions Which May Be Hazardous to Children.*

Given below are some criteria for evaluating unsuitable home conditions which may be hazardous to children:

1. *Physical Care and Protection Within the Means of a Parent(s)*—Common in neglect situations is the inability of parents to provide within their *means* the following: (a) a physical setting that is reasonably safe, clean, and comfortable; (b) food that is nourishing and well prepared; (c) comfortable and reasonably becoming clothes kept clean and mended; (d) established orderly, daily routines, such as regular meals; (e) body cleanliness of children.

Insufficient funds and adverse social conditions may make it impossible for parents to provide the kind of care they desire for their children. The desire to provide the best possible care for their children distinguishes some parents from others who deny that problems exist and protest that there is nothing more that they can do.

2. *Supervision, Guidance, and Discipline*—Parents are expected to supervise the daily activities of their children, guide them as they learn the rules of society, and discipline impulsive and uncontrolled behavior. When parents fail in this respect, ignorance and lack of opportunity are frequently causative factors. In this group are often mothers who work at least part-time out of the home and make no safe or satisfactory plan for the care of children in their absence. Young children are left alone or with an older child who is overburdened and ineffective in supervision.

Children whose parents fail to provide proper supervision, guidance, and discipline sometimes react as follows: (a) steal, fight, and break windows; (b) become tense and anxious; (c) have temper tantrums; (d) become aloof and are on-lookers instead of participants in school and social activities. The disturbances these children create frequently bring them to the attention of the public agency through reports from nurses, teachers, and clinic personnel.

Early detection is extremely important. The sooner parents and children are helped to examine these patterns of behavior, the greater the possibility of reversing the trend and sparing the child increasing difficulty as he grows older.

The agency's intervention needs to be based upon conviction that change is essential for the safety and well-being of the children. The agency's authority to insist on more responsible care often induces parents to examine their own positions. They may protest vigorously, but they are often actually relieved to find strength in an outside factor that requires something of them.

3. *Exploitation of Children*—This usually occurs in family groups where there are many problems and serious social pathology. Examples of exploitation are: (a) openly teaching or furtively encouraging children to steal or to participate in other anti-social behavior to satisfy the parent's own desires; (b) sending children out to beg or using them as go-betweens in narcotics traffic; (c) encouraging prostitution or otherwise misusing the girls or allowing others to do so. Frequently the hazard in such situations calls for prompt referral to court to safeguard the child from further damage. A thoughtful study of the family situation is the only sound basis for planning.

In some cases, efforts to help such parents find satisfaction in more socially acceptable behavior fail and permanent separation through termination of parental rights is the only way to protect the children. However, before such final decisions are considered, it is important to use any available psychiatric and psychological resources for a thorough diagnostic evaluation and to give parents every opportunity to get help with the personal problems that interfere with normal parent-child relationships.

The more frequent and less pathological forms of exploitation also adversely affect children. Examples are: (a) overworking children; (b) expecting children to take unreasonable responsibility for house-

hold tasks and care of younger children; (c) keeping children out of school or denying them time for normal school activity. In such cases, the agency has a responsibility to help families plan household management and child care so as to protect the rights of the children to sound educational and recreational experience.

4. *Protection from Degrading Conditions*—It is important to recognize the difficult task found by parents who must live in slum areas where children are exposed to many dangers. Overcrowded households force children into the streets and sometimes into places where they may become victims of juvenile delinquency or adult degradation.

Excessive drinking, gambling in the home, criminal activity or immoral and bizarre sex practices subject children to serious emotional problems and distorted development.

These severe personal and family problems need the most skillful service the agency can provide.

5. *Abuse and Physical Cruelty*—In the total picture of neglect, the percentage of abused children is small. Parents who are physically cruel to children are usually suffering from pathological conditions.

Physical punishment is a common form of child discipline. Brutal treatment is at times associated with rigid, unreasonable behavior standards. Both physical and psychological damage to the child can be severe. Physical cruelty sometimes is associated with alcoholism or drug addiction, with a resulting loss of the parent's good judgment.

Current experience indicates that (a) adults who inflict injuries on children are likely to repeat the

attack; (b) the adult is not reacting to specific behavior but to his own feelings; (c) police warning, court action and probationary status have been ineffective as deterrents. In these circumstances, young children are dependent for protection upon social, medical, and legal agencies.

Occasionally parents are relieved to express their true feelings about the child and to participate in plans for his care outside the home. Frequently an expression of severe hostility is directed to one child while the other children are given adequate care.

B. *Procedures to Be Followed When Home Conditions Exist Which May Be Hazardous to Children.*

Unless the welfare of the child calls for a petition to the court, the parent or other grantee relative will be expected to take steps to improve the situation in the home. The counselor will help the parent or other grantee relative in areas where he can. At the end of three months, a re-evaluation will be made and next steps decided upon. Continue to work with the parent or grantee relative toward further improvement and set a new date for evaluation, not later than three months.

C. *Procedures to Be Followed When Court Action Is Initiated.*

Sometimes it is necessary for the county department to file a petition for the immediate removal of a child from his home in an extreme situation, but most often this is not the case.

If the worker and county director agree that a petition should be filed for removal of a child from his home, the record must show what condition of unsuitability exists, what ill effect it has had or is expected to have on the

child, what efforts have been made to help the parent improve the situation, the alternate plan which has been made for the child's care and how he is expected to benefit by it.

In counties where there is a supervisor responsible for child welfare cases, there should be consultation with this supervisor before reaching a decision regarding removal of a child from his home.

Given below are procedures to follow in initiating court action for removal of a child from his home and in securing advice from the State Department.

Before petitioning the court to remove a child, you may wish to ask the field representative and/or the child welfare supervisor to read the case in question if they are in the county office or are expected there soon, or you may wish to mail the case record to the Bureau of Child Welfare and request a review.

If a petition is to be filed, use civil procedures provided under Title 13, Section 361, Code of Alabama 1940, as amended.

If the court adjudges the child should be removed from the home and placed elsewhere, discontinue aid for *this* child in the home from which he was removed. If the child is placed in a suitable home with another relative of the required relationship for ADC, a new ADC case can be opened and payment made in the usual way.

If the court does not remove the child from the parent's or other grantee relative's home and if he is otherwise eligible, continue the ADC payment.

Note: Sometimes a parent's neglect of a child is such that it appears the parent should be prosecuted. When such action is indicated, mail the case record to the Bureau of Child Welfare for review by appro-

priate State Staff, which will always include the legal advisor. If the decision is to prosecute the parent and it appears that the child's best interest can be served by placing the parent on probation, the county department will be asked to discuss this with the judge.

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When the court adjudges a child should be removed from his own home because of unsuitable home conditions, board can be paid for foster family care and matched as ADC, provided *all* of the following conditions are met:

1. The child meets all eligibility requirements for ADC with the exception of the requirement that he must be living in the home of specified relatives.

2. The child received ADC in or for the month in which the petition to effect his removal from the home was filed. The fact that ADC is terminated in his own home if he is an only child or if other children were also removed does not affect his eligibility for ADC-FFC. If petitions are filed by other agencies or individuals charging parental failure, the date of such proceedings may be regarded as the month in which legal action for the child's removal was initiated.

3. A petition for removal of the child has been filed in a court of competent jurisdiction under the general laws of the State and it has been judicially determined that the child is neglected and/or in hazardous circumstances and that his continued presence in the home will be detrimental to his well-being.

4. The court has awarded legal custody of the child to the department of pensions and security

with responsibility to make plans for the child's care. (This is always a written order.)

Although legal custody is vested in the agency, the agency will respect parental rights and responsibilities, including visiting, decisions that involve a child's future, and the parent's duty to support the child to the extent of his ability. (When the court severs parental rights and *permanent* plans away from the child's home must be made, no ADC-FFC payments can be made.)

5. The foster family home in which the child is placed is licensed by the department of pensions and security in accordance with policies in *Manual for Administration of Child Welfare Services.* (See pamphlet, "Minimum Standards for Boarding Foster Homes," 1960, prescribed by State Board of Pensions and Security and "Guide for Making and Recording Foster Home Study," FH-1, in the child welfare manual.)

6. Purposeful visits are made to give continuing supervision of the child and to work with foster parents in behalf of the child. A general standard of monthly visits will be observed. More frequent visits will be necessary in some cases, while less frequent visits may be indicated in others. For example,

less frequent visits will be required in an instance in which a child has adjusted quickly and satisfactorily to the foster home and family.

Services to children and foster parents in ADC-FFC cases are specifically directed toward:

a. *Helping children* by: assisting in the maintenance of their ties and relationships

with their parents and other family members; assisting them to understand actions that resulted in separation from their parents and helping with attendant emotional reactions and problems; assisting them to understand the reasons for foster family care and to have positive experiences in foster family homes; and developing long-range plans for care suited to the individual child's needs and that afford him the maximum satisfaction, opportunity, and sense of belonging. Service resources within the agency and the community will be used to the fullest extent. (See "Community Resources," Chapter XIV of the child welfare manual, and "Services in Addition to Establishing Eligibility," Section VI of Chapter Five in Alabama Manual, Part I.)

b. *Helping foster parents:* to understand the responsibilities, objectives, and requirements of the agency in relation to the children in their care; to provide the children the nurture, care, and training suited to their individual needs; to encourage the maintenance of parent-child relationships; to participate appropriately in the treatment of children with special problems; and to facilitate termination of placement when no longer needed or desirable.

7. During the placement period, the agency gives continuing casework and other appropriate services designed to enable parents and/or relatives to improve home conditions. In addition, the agency encourages the parents to maintain continuing relationships and ties with their children during placement and to assist their chil-

dren to use the placement experience constructively. (Although the county department does not initiate court proceedings until it appears that further efforts to help the parents will be unproductive, court action itself sometimes motivates a parent to change.)

The primary casework objective in these cases is the improvement in family functioning and the child's return to his home as quickly as possible. When the county department and field representative and/or child welfare supervisor agree that parents and/or relatives are maintaining a suitable home and the probability is that they will continue to do so, the subject of restoring legal custody to the parents or other grantee relative should be discussed with the court.

8. At least once each six months there is reassessment and reevaluation that: (a) no other plan of care is feasible or suitable for the child and that foster family care continues to be necessary; and (b) the child continues to be eligible for ADC except for living in the home of a relative of specified relationship.

When it is determined at any time during the year that the child cannot return to the home from which he was removed or that no other ADC plan can be made for him, the county department will terminate the case for ADC-FFC and refer it to child welfare for further planning.

Usually, ADC-FFC will not be continued beyond one year. When, however, a child has been in a foster family home for as long as a year and there is a good probability that he can re-

turn to his own home, the county department may wish to request an extension of ADC-FFC. This request must be sent to the Bureau of Child Welfare with full explanation of the request. A joint decision on the request will be made by the Bureaus of Child Welfare, Field Service, and Public Assistance.

When possible, child welfare workers should be assigned cases for which ADC-FFC is paid. If this cannot be done, the cases should be assigned to other workers experienced in working with children and families.

XII. *Aid on Behalf of an Unborn Child*

Aid may be given for an unborn child when the mother's pregnancy has been determined by a legally licensed physician and other conditions of eligibility are met. File a copy of the physician's diagnosis in the case record or interview the physician and record full information regarding his diagnosis.

The granting of ADC before the birth of a child is in recognition of the direct effect on the child of the mother's need during pregnancy.

XIII. *School Attendance*

School attendance is not a requirement for the receipt of aid, except for children ages 18 to 21. Families should be urged to have their children take advantage of available educational opportunities.

Occasionally children *have to attend school away from home*—for example, when school facilities are not available in the community in which the child lives or they are not equipped to meet his needs, as in the case of the blind or deaf child. In such a situation, plans may be

made for a child to attend grade or high school, a course of vocational or technical training, a boarding school, college (for children under 18 *only),* or a State school, such as the school for the deaf and blind in Talladega. ADC may be given in such instances, provided the grantee relative can make suitable arrangements for the child to

live temporarily with a related or unrelated person in the community to which the child goes or at the school in question. (Refer to Chapter Three for budgeting procedures in such situations.)

If a child under 16 is to reside in an unrelated home at board for the purpose of attending school, the home must be licensed as a boarding home. Follow the procedure for securing the license as outlined in *Manual for Administration of Child Welfare Services.*

In the situations described above, give the ADC grant to the person responsible for parental guidance (the grantee relative) and not to the person in whose home the child is temporarily residing. Do not set up a separate record for the child, as the family record will include information regarding him and his adjustment. If he is in a licensed boarding home, maintain a record on the boarding home as is done for other boarding home records.

XIV. *Temporary Arrangements for Children Receiving ADC*

An emergency may arise in a family receiving ADC—for example, sudden death, desertion, or commitment to a mental hospital of a parent or other grantee relative. If there has been insufficient time to make other plans for

the child's care or support, ADC payments may be *continued* on behalf of any child already in the budget at the time the emergency occurs. Remove the absent grantee relative's needs from the budget and do not add any new person to the budget. (Refer to "Accural Rights of Applicants and Recipients to Money Payments" in Chapter Four.)

Continue ADC only until there has been time, *but not to exceed three months,* to explore other plans for the care of the child with a relative eligible to receive ADC. Make payments to the person, related or unrelated, acting for the parent or other grantee relative. If no new ADC plan has been made by the end of the third month, discontinue ADC. Then make arrangements for care through the boarding foster home program or through institutional facilities.

Children under 16 residing temporarily with unrelated persons may continue to receive ADC only if such homes are licensed as boarding homes. Follow the same licensing procedure as outlined in *Manual for Administration of Child Welfare Services.*

Licensed boarding homes are not required for (1) children under 16 in related homes; (2) children 16 or over in unrelated homes. The county department, however, has responsibility for determining that the home meets the particular needs of the children who are receiving temporary care there. Also, if the emergency plan involves the assumption of responsibility by an unrelated person who comes to the child's own home temporarily, the home does not require a license.

During the temporary period, do not follow the usual procedure for setting up separate case records and assigning case numbers. (See "Case Numbers" in section, "The Case Record," Chapter One. Also, see Chapter Four.)

Initial Payment Made Before Child Moves to Grantee Relative's Home

In the instances below, an initial ADC payment may be made to a grantee relative before the child actually moves to the home, provided he is expected to move there within 30 days of the receipt of the first payment.

1. When a child has been living in an institution.

2. When a child has been living in a licensed boarding home, provided:

   a. The board is being paid by a source other than the department of pensions and security; or

   b. The board is being paid by the county department, but the grantee relative wishes to assume responsibility for the child, including the payment of board for the 30-day period before the child will move to the grantee relative's home.

Initial ADC payments are made to help a relative carry out a plan which seems to be to a child's best interest. These payments help provide some unmet needs of the child, including costs incidental to placement.

If the county department incurs financial obligations for a part of the month under both ADC and aid to children in foster care, both types of aid may be given. The regular ADC monthly payment will be made. ACFC will be paid on the basis of the number of days the child is at board.

In ADC-FFC cases, when a child moves to a foster home from his own home in which he receives ADC, both types of aid may be given during the same month. The regular ADC payment will be made for the full month.

The ADC-FFC payment will be computed as follows: (1) board according to the number of days at board; and (2) the full monthly amount for clothing, medicine chest supplies, and incidentals.

Section VII

Public and Private Institution

The following policies relating to public and private institutions apply in *OAP, AB,* and *APTD*:

I. *Policies Applicable to Persons in Both Public and Private Institutions*

If a person receives public aid while in a medical institution, that institution must be either (1) operated by the Federal Government, or (2) licensed by the State Health Department. The

latter group of licensed institutions where aid may be given includes: general hospitals; maternity homes; and nursing, rest or convalescent homes (including cerebral palsy treatment centers) caring for two or more persons unrelated to the proprietor.

B. A person *cannot* receive aid when in tuberculosis or mental hospitals. Also, he cannot receive aid when receiving care in other medical institutions because of tuberculosis or psychosis, except for the limited period of hospitalization under the OAP and MAA programs. (If a person's right to a payment accrues before he enters the institution, he can receive that payment provided he is mentally capable of endorsing his check.)

II. *Policies Applicable Only to Persons in Public Institutions*

An *inmate* of a public institution cannot receive aid, regardless of the number of persons the institution serves or is set up to serve. Persons may be eligible, however, who are:

A. Patients in a licensed public general hospital (or in a Federal hospital). In such an instance, the budgeted needs must not include items furnished without cost by the institution.

B. Patients in a licensed maternity, convalescent, rest, or nursing home, including patients in a cerebral palsy treatment center.

C. Attending a public educational or vocational training institution, such as the State School for the Blind or vocational training centers, if such institutions provide nothing more than food, shelter, and laundry. (In Alabama, adults receiving public aid go to these institutions for a temporary period to receive education and training. The programs for these adults are set up to provide only food, shelter, laundry, and training.)

III. *Policies Applicable Only to Persons Living in Private Institutions*

An individual living in a private institution may receive public aid under the following conditions:

A. The institution is a general hospital, maternity home, nursing, rest, or convalescent home (including a cerebral palsy treatment center), or a personal care home giving care to two or more unrelated persons;

B. The institution is *licensed by the State Health Department;*

C. The person is free to make his own arrangements, establish the terms of financial agreement with the institution, and determine the duration of his stay;

D. The person has not purchased care and maintenance which would render him ineligible as to need by payment to or transfer of money or money's worth to the institution in sufficient amount to cover cost of maintenance and care;

E. The institution is not for tuberculosis or mental diseases; or the person is not receiving treatment for psychoses or tuberculosis in some other type of private institution, except for the limited period of hospitalization under the OAP and MAA programs.

When an individual in a private institution receives public aid, the county department must establish that all the above facts exist. In addition, it must establish that the institution is not a public institution of a type where aid cannot be granted.

IV. *Definitions*

A. *Public Institution*—A public institution provides shelter, custody, or care and is the responsibility of, or is under the administrative control of, a governmental unit. Evidences of administrative control of the institution include *governmental participation in any of the following*:

1. Financial support of the institution.
2. Policy formation.
3. Application of policy to specific situations.
4. Selection or appointment of the institution's governing body.

5. Selection, appointment, or payment of staff.

6. Participation in setting up admission policies or fees.

7. Control of decisions on applications and of financial arrangements with persons accepted.

8. Control of any phase of operation through standards different from those of private institutions.

Sometimes the use of publicly owned property is transferred to a private individual or group by official action that is a matter of public record or by lease. Then it is not a public institution if its day by day administration is controlled by the tenant, subject only to such governmental controls as are applicable to other private institutions for adults. Without some public administrative control, it is not classed as a public institution even if it receives some public money. Payments from public funds to or in support of individuals in private institutions are not considered governmental participation in financial support of the institutions.

Ala. Manual, Part I II-57

Public institutions in Alabama are limited in number and, in the main, include: any local governmental, State, or Federal hospital, school, domiciliary, penal or correctional facility. These include State hospitals for the mentally ill and public tuberculosis sanatoria.

The above criteria should enable county departments to determine whether or not an institution is a public one. If there is any question as to the nature of the institution, the county department shall forward full information about it to the State Department, which will make the decision.

B. *Inmate of a Public Institution*—An inmate of a public institution is a person living in a public institution

who plans to continue to live there or is there on court commitment.

Under this definition:

1. A person living in a public domiciliary institution, including a personal care home, is not an inmate if he has definite plans to leave within the current month.

2. A person attending a public educational or vocational training institution—for example, a state school for the blind—where living in the institution is incidental to the purpose of securing education or training, is not an inmate of an institution.

3. A patient in a public general hospital, maternity home, or nursing home (including a cerebral palsy treatment center) is not considered an inmate of a public institution.

4. A person on conditional release—for example, on "parole" or "trial visit" from a public mental hospital where he was an inmate—is not an inmate if he is free of controls by the hospital other than professional help or guidance related to the mental condition.

C. *Medical Institution*—For public aid purposes, a medical institution is a general hospital, maternity home, nursing, convalescent, or rest home, or cerebral palsy treatment center that meets the following criteria:

1. It was established to provide medical care and has the necessary professional personnel, equipment, and facilities to meet the medical needs of patients in accordance with accepted standards.

2. It is staffed by professional medical and nursing personnel who have clearly defined responsibili-

ties to the institution for providing medical services to patients.

3. It is not a tuberculosis or mental hospital.

Any such institution licensed by the State Health Department or operated by the Federal Government meets this definition.

D. *Patient*—A *patient* is a person who is admitted to a *general* hospital for professional medical treatment, or who receives care and treatment in a maternity home, convalescent, rest, or nursing home, or cerebral palsy treatment center.

E. *Private Institution*—A private institution provides shelter, custody, or care to individuals not related to the owner or manager. It is usually entirely supported by private funds. However, it may be partially supported by public funds, if a governmental unit does not exercise any administrative control. It may be supported by a fraternal, religious, educational, or charitable corporation, voluntary association, society, or organization, or it may be owned and/or operated by some individual(s) as a profit or non-profit enterprise.

V. *ADC and TA in Relation to the Preceding Policies.*

An adult included in a budget in these two categories may remain in the assistance plan for a temporary period, usually not to exceed three months, while receiving treatment in a tuberculosis sanatorium. The month following an adult's admission to the sanatorium, the county department will adjust the budget to include the adult's clothing and incidentals only. An adult included in a budget in these two cagetories may also receive temporary care in certain other facilities, such as nursing homes. Budgeting policies for the particular facility will be followed.

PLAINTIFFS' EXHIBIT 6.

Department of Health, Education and Welfare

For Release at 10:00 A. M.,
Tuesday, March 26, 1963

March 25, 1963

Memorandum Concerning Authority of the Secretary, Under Title IV of the Social Security Act, to Disapprove Michigan House Bill 145 on the Ground of Its Limitations on Eligibility

This memorandum is addressed to the question whether the Secretary of Health, Education, and Welfare has legal authority to disapprove the amendment to the Michigan plan for aid to families with dependent children, which would be made by House Bill 145, on the ground that the definition of "unemployed parent" is unreasonable and arbitrary.

By way of preface, it should be remembered that throughout the history of the Social Security Act the position of the administering Federal agencies (the Social Security Board and its successors) has been that, if a State chooses to utilize criteria of eligibility narrower than those permitted by the Federal statute, the State plan is approvable only if the classification effecting such limitation is a rational one in the light of the purposes of public assistance programs. The only case in which this view has been tested in court arose out of an Arizona statute providing aid to the permanently and totally disabled who are in need, but excluding reservation Indians. This State plan was disapproved by the Federal Security Administrator, and the State brought suit in the District Court for the District of Columbia. Despite the argument

that the State exclusion was reasonable in light of general Federal assumption of responsibility for the welfare of reservation Indians, the action of the Federal Security Administrator was sustained. The oral opinion of Judge Schweinhaut, delivered from the Bench, is not officially reported, and a copy is attached to this memorandum. On Appeal, the Court of Appeals held that the case should have been dismissed as an action against the United States not consented to, and thus did not reach the merits. *Arizona v. Hobby*, 221 F. 2d 498 (C. C., D. C., 1954).

With this background, it is clear that the Secretary has authority to disapprove the proposed Michigan plan on the ground that it is discriminatory, unless Congress has specifically denied him this power by Section 407 of the Social Security Act. It is my understanding that the wording of this section is the single point on which the State of Michigan relies. I should observe, however, that in my judgment the exclusions which would be effected by the bill pending before the Governor bear no rational relation to the purposes of a public assistance program, and that a person excluded solely by these provisions could make a forceful challenge under the Fourteenth Amendment to the constitutionality of H. B. 145 should it become law.[1] The fact that such classifications have

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[1] It would appear self-evident that the Secretary might properly disapprove a State plan so discriminatory as to be unconstitutional under the Fourteenth Amendment—e. g., a definition which included a racial factor. H. B. 145 skirts, if it does not cross, this line. The applicable principle of law was succinctly stated by Mr. Justice Frankfurter: "Congress may withhold all sorts of facilities for a better life but if it affords them it cannot make them available in an obviously arbitrary way * * *" (Separate opinion in *American Communications Ass'n v. Douds*, 339 U. S. 382, 417 (1950)). The same principle, of course, is applicable to State legislation. The validity of a classification, moreover, is to be judged by its reasonableness in relation to the purpose of the legislation of which it forms a part. *Smith v. Cahoon*, 283 U. S. 553 (1931); *Gauthier v. Foundry Co.*, 360 Mich. 510, 104 N. W. 2d 182 (1960); *Godsol v. Michigan U. C. Comm.*, 302 Mich. 652, 5

been sustained in contributory social insurance, which involves tax burdens and correlative benefits based on loss of earnings rather than on individual need, and which entails administrative difficulties in tax-collection and record-keeping very different from those of public assistance, has little if any bearing on the rationality of the similar classifications in H. B. 145. That a number of States other than Michigan are operating programs for unemployed parents without similar limitations suggests that the alleged administrative need for these limitations should not be a controlling consideration. No other reason for them has been suggested.

Turning, then, to section 407, the question is simply whether Congress intended by the phrase, "unemployment (as defined by the State)," to permit the States to wrap up, in a so-called definition of unemployment, limitations that have no relation to the dictionary or general meaning of the word "unemployment."

It has become a common practice in legislative drafting (in some ways an unfortunate because confusing one) to incorporate much substantive legislation in what are de-

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N. W. 2d 519 (1942); *Templar v. Michigan Board of Examiners*, 131 Mich. 254, 90 N. W. 1058 (1902).

In the test litigation under the Fourteenth Amendment, a typical State unemployment compensation law (that of Alabama) was unanimously held by a three-judge Federal district court to be invalid, on the ground of arbitrary classification, because it excluded employers of fewer than eight employees (*Gulf States Paper Corp. v. Carmichael*, 17 F. Supp. 225 (M. D. Ala., 1936)), the court saying that "from the employee standpoint the need of protection is not less because he works with fewer employees * * *." The United States Supreme Court reversed by a five-to-four decision (the minority, however not relying specifically on this ground). *Carmichael v. Southern Coal Co.*, 301 U. S. 495 (1937). Since administrative and other considerations justifying such a classification in social insurance are considerably stronger, as indicated in the text of this memorandum, than they are in public assistance, the total effect of the *Carmichael* cases would seem to argue against, rather than for, the validity of H. B. 145 on this issue. It is difficult to see what persuasive answer could be made, in court, to the person whose children would be denied assistance solely because he had worked for too small a firm.

scribed as "definitions."[2] The position contended for by the State of Michigan can only mean that any substantive law incorporated by a State in such a "definition" is immunized by section 407 from Federal scrutiny.[3] This position, if it permits a State to avoid the Federal requirement of rational eligibility conditions discussed above, would logically also permit an ingenious State draftsman to circumvent other requirements of Title IV of the Social Security Act simply by incorporating, in what is described as a definition of "unemployment," terms contrary to other requirements of the Federal Act. Thus, a State could define an unemployed parent as one who is out of work and has agreed to accept a lesser amount of assistance than would otherwise be his due, or as one who is out of work and has agreed to forego his right to a hearing. Unlikely though such devices may be, they are logically indistinguishable from incorporation of occupational qualifications in a definition of "unemployment."

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[2] The definition of "employment" in State unemployment compensation laws is a conspicuous illustration of this practice. Michigan's definition covers 3½ pages of the statute book (Mich. Comp. Stat., sec. 17-545), in contrast to the few lines required by Webster's New International Dictionary (2d Ed.) to define the same word.

The word "definition" is defined by Webster, basically, as the "act or process of explaining the meaning or meanings of a word, term, or designation * * *." The Michigan "definition" in question is designed, not to *explain*, but to *create* a meaning.

[3] This interpretation would render wholly unnecessary the concluding sentence of section 407, which reads:

> "For purposes of the preceding sentence, a State plan may, at the option of the State, provide for the denial of all (or any part) of the aid under the plan to which any child or relative might otherwise be entitled for any month, if the unemployed parent of such child receives unemployment compensation under an unemployment compensation law of a State or of the United States for any week any part of which is included in such month."

If Congress had intended the phrase "unemployment (as defined by the State)," to mean what the State contends, it would have had no occasion to add this sentence.

The Committee reports likened the latitude given the States in defining unemployment to the latitude they have always enjoyed in defining need. H. Rept. No. 28, 87th Con., 1st Sess., p. 3; S. Rept. No. 165, 87th Cong., 1st Sess., p. 3. Standards of need may be liberal or restrictive, as a State chooses, but they may not be whimsical, and they may not import eligibility or other extraneous factors unrelated to the economic situation of the individual applicant. In like manner, a State may be liberal or restrictive in defining unemployment, but the latitude granted goes only to the determination what factual situations in relation to the labor market render a person unemployed, not to the occupational nature of his previous employment.

A man losing his employment with a nonprofit university or hospital is just as much (or just as little) "unemployed" as a person in like circumstance losing his employment with a commercial establishment. Given the same work history and the same circumstances of loss of job, no true definition of "unemployment" can distinguish between these two men. This is true if we look to the dictionary, and it is true if we look to common parlance; it is not altered in the least by the accident that Congress and State legislatures have used the term "unemployment" in a highly artificial sense in other legislation of a different character—have used it, indeed, as a drafting mechanism for the very purpose of establishing criteria of eligibility.

In my judgment, the provisions of H. B. 145 in question are in no true sense a definition of "unemployed parent," and are thus not within the permissive language of Section 407 of the Social Security Act.

/s/ ALANSON W. WILLCOX,
ALANSON W. WILLCOX,
General Counsel.

Attachment

PLAINTIFFS' EXHIBIT 7.

9/2/64

Deprivation of Parental Support (Incorporated)

ARKANSAS

2801 *Parent Defined*

"For the purpose of determining eligibility for Aid to Dependent Children, a parent is defined as follows:

"(1) The legal father or mother, parents who are legally married.

"(2) The step-father or step-mother who is married to the natural parent of the child and who is living in the home with the child.

"(3) The adoptive father or adoptive mother who has legally adopted the child.

"(4) The natural father of a child born out of wedlock living in the home with the child or who has acknowledged paternity of the child or who has been named the father of a child by a court.

"(5) The natural mother of a child born out of wedlock.

"(6) The parent in a stable nonlegal union. (See Section 2813)."

Arkansas Manual—Section 2801.

2813 *General Principles Concerning Deprivation Due to Continued Absence from Home of the Parent*

. . .

"When a parent has remarried and a stepparent moves into the home, or when a parent maintains a stable nonlegal union, 'continued absence of a parent from the home' can no longer be considered as reason for depriva-

tion of parental support or care. *A stable nonlegal union is presumed, even though a father is not living continuously in the home, where the mother affords the privileges of a husband to a man and there is a continuing relationship. Evidence of such a relationship may be:*

"1. Frequent visits by the man to the home of the mother of the children.

"2. Frequent appearances of the man and mother in public as a couple.

"3. Repeated pregnancy by the same man.

"4. Joint charge or bank accounts or privilege of mother to charge to man's account, joint purchases.

"5. Substantial gifts to the family by the man.

"6. Address of the family given as man's residence to third person, on driver's license, or with license authorities.

"7. Purchases on installment made by man if he has delivery made to the mother's address or any arrangement made with the man's creditor to have his bills for any unpaid balance on his purchases sent to him at mother's address.

"8. Delivery of man's mail to mother's address.

"9. Declaration of children and/or mother as the dependents of the man on W-4, etc.

"The discovery of *one* of the above facts may not be in itself sufficient evidence of the existence of a stable nonlegal union, but all possible evidence should be discovered and the decision that a union exists or does not exist should be made from the evidence presented.

"Whenever continued absence of a parent from the home is given as reason for the child's deprivation of parental support or care, proper evidence of such absence must be obtained. Such evidence will vary

in accordance with the reason for the parent's absence from the home.

"The absent parent is an important source of information and should, whenever advisable, be contacted to ascertain his ability to provide for the child and the reason for his continued absence from the home."

Arkansas Manual—Section 2813.

PLAINTIFFS' EXHIBIT 8.

9/2/64

District of Columbia—Current Manual Material
Submittal No. 201—Still (Pending)

For purposes of deprivation policies, "parent" includes adoptive, step, common-law and unmarried parents. It also includes a person who is in a parent's role in the home although not legally married to the other parent and not father of any of the children.

. . . . . .

c. *Conjugal Relationship.* Children whose mother has a conjugal relationship with a man outside the home may receive AFDC, if they are otherwise eligible, as long as there is a clear dissociation from normal family relationships. (See Appendix 2 for criteria for making this evaluation.)

. . . . . .

Assistance must be denied when:

a. A man, other than the mother's father, grandfather, brother, or son lives with the family, unless he is incapacitated;

b. The mother and children have a continuing familytype-relationship with a man, regardless of whether he is living with the family.

Explanation of "Substitute Parent" Policy. Children are ineligible on the basis of not being deprived of parental support and care when an employable man other than a relative listed above is living with the family in a husband-father role.

This policy also applies when a man maintains such a relationship with the family even though he maintains an address elsewhere.

Social Worker's Responsibilities. In carrying out this policy, the Social Worker will:

a. Investigate, or refer to Investigation Service, any evidence of a relationship with a man;

b. Evaluate the nature of his relationship to the family, when such a person is found;

c. Immediately terminate the payment when the man is living in the home or otherwise continuing a family relationship.

Evaluation of "Family-Type Relationship." Criteria for evaluating a family-type relationship appear in Appendix 2 to this Section.

Procedures. A more complete definition of this policy and instructions for putting it into effect appear in EL 4.5.

. . . . . .

Definition of Head of Household. When both the husband (or person in that role) and wife are in the home, the husband is considered head of the household unless by court action he has been declared incompetent.

In AFDC, the husband maintains his position as head of the household when he is away from home temporarily or institutionalized for a period expected to be three months or less.

The wife or mother becomes head of the household if she is widowed, divorced, unmarried and over age 18, or her husband has abandoned or deserted the family.

. . . . . .

c. *Continued Absence*

1. No family type relationship with parent or "substitute".

. . . . . .

CRITERIA FOR EVALUATING CONTINUED ABSENCE APPENDIX 1.

The following points, considered in combination and with other facts in the social investigation, tend to prove that a parent or "substitute parent" is continuing his family relationship:

1. Contributes to the family's support.

2. Visits frequently, at unusual times, or for long periods.

3. Regularly meets mother outside the home.

4. Has joint charge or bank accounts with mother or allows her to charge to his account.

5. Makes joint purchases with the mother.

6. Mother and he are continuing to increase their family.

7. Gives gifts to the family.

8. Gives the family's address as his residence.

9. Lists the mother and/or children as his dependents for income tax purposes.

10. Has personal possessions in the home.

11. Physical layout of home, sleeping accommodations and family's use of them give indications that space has been made available for him.

12. The neighbors consider the relationship that of a normal family.

13. Mother uses his name in the community.

14. Has a key or free access to the home.

15. Pays family's rent or utilities.

16. Helps family look for or move into new housing.

17. Signs lease or purchase agreement for family's residence.

18. Does maintenance work in the home.

19. Is arrested in the home.

20. Participates in family shopping trips or in obtaining surplus foods.

CRITERIA FOR EVALUATING FAMILY-TYPE RELATIONSHIP APPENDIX 2.

The following points, when considered in combination and with other facts in the social situation, tend to prove that a man has relationship with the children similar to that of father to child:

1. Visits the children in the home.

2. Contributes money, clothing and other necessities to their support.

3. Disciplines and corrects them.

4. Gives them gifts.

5. Cares for them when the mother is sick or away.

6. The children look to him as the father.

7. Acts "at home" with them by feeding, dressing, carrying, or fondling.

8. Takes them on walks or outings.

9. Shows concern for their health and uses community health facilities to restore their health.

10. Shows interest in their education, as by attending PTA meetings, visiting the school and helping with school work.

11. Responds in emergencies, such as illness or child in trouble, some reasons for terminating applications.

. . . . . .

23. Father of some, but not all of the children, maintains a continuing relationship with the mother and children.

24. Paramour, father of none of the children, maintains a continuing relationship with the mother and children.

Periodic investigations are made to determine whether absent parent has returned or there is a "substitute" parent in the home.

. . . . . .

IV. VERIFYING DISSOCIATION

A. The absent parent's dissociation from normal family relationships must be verified by the social investigation as a whole, including information from reliable sources as well as any pertinent legal records. The facts which are significant will vary between cases; establishing any single fact will rarely be sufficient.

B. Some facts to be considered by the Social Worker in determining that there is *no clear dissociation* from the normal family relationships are:

1. Regularity of contributions to the support of the family;

2. Frequency, duration, and time of visits by the husband or other man in the home;

3. Frequency of meetings with the husband or other man outside the home;

4. Frequency of pregnancies by the husband or other man;

5. Joint charge or bank accounts or privilege of mother to charge to husband's or other man's account;

6. Joint purchases;

7. Gifts to the family;

8. Address of the home given by husband or other man as his residence;

9. Listing of the mother and/or children as the dependents of the husband or other man for income tax purposes;

10. Location of personal possessions of husband or other man in the home;

11. Number and layout of rooms, as well as number, kind and use made of sleeping accommodations;

12. The neighbor's understanding of the relationship that exists between the mother and the husband or other man;

13. The name by which the woman is known in the community;

14. The husband or other man possesses a key to the house;

15. The husband or other man has free access to the home;

16. Payment of rent or utilities for the home by the husband or other man;

17. Hunting for housing for the family by the husband or other man;

18. Assists the family in moving;

19. Signing of lease or purchase contract for home by husband or other man;

20. Performance of maintenance work in the home;

21. Arrest of the husband or other man while physically present in the home;

22. Participation of husband or other man in shopping trips or in obtaining surplus food.

C. 23. *Relationship with a "Substitute Parent".* Page 34 of the Policy Handbook states Agency Policies on the "Man in the home." Any man not a close blood relative (father, grandfather, brother, or son) of the mother, who shares the family's living quarters, is considered to be in this relationship, unless clear evidence is presented to the contrary.

Some facts to be considered in determining that the man (not living in the home) has a relationship with the children similar to that of father and child are:

1. Visits the home to see the children;

2. Contributes to the support of the children;

3. Exercises parental control and guidance;

4. Donates gifts to the children;

5. Cares for the children when the mother is ill or absent;

6. Is the father figure in the home;

7. Acts "at home" with the children by dressing, feeding, carrying or fondling them;

8. Take the children on walks, excursions and the like;

9. Shows concern about the health of the children and uses health facilities in the community to restore the health of the children;

10. Provides clothing and other necessities for the children;

11. Shows interest in the educational progress of the children, such as by attending PTA meetings, visiting school about the children, helping child with school work;

12. Responds in time of crises, such as illness of children, child in difficulty with police.

C. Children whose mother has a conjugal relationship with a man outside the home may be included in the AFDC Program when there is a clear dissociation from the normal family relationship as defined above, provided they are otherwise eligible.

All resources and possibility of support from the man concerned must be determined.

PLAINTIFFS' EXHIBIT 9.

GEORGIA

Part III—Section V, Page 7

3. *Deprivation of Parental Support or Care by Reason of Death, Continued Absence from the Home, or Physical or Mental Incapacity of a Parent.*

a. *Parent Defined—Laws and Regulations on Support*: The term parent used in relation to this eligibility factor is defined as follows:

* * * * * * * *

(5) Substitute Father: A man living in common-law relationship with a woman is considered a substitute father of any child had by that woman, or any child that woman has had by another man. Further, a man living in common-law relationship with a woman is responsible for the support and care of his and her children, regardless of whether or not he is married to another woman. Regulations place the same responsibility on this man as if he were the legal husband. The rules for establishing deprivation are the same as those used in establishing it in a legal-father situation.

A common-law relationship is considered to exist when a man, married or single, lives in the home with the A/R

for the purpose of cohabitation or, if not living in the home regularly, he visits frequently for the purpose of living with or cohabiting with the applicant.

Pregnancy or a newborn baby is prima facie evidence of a substitute father. Only in situations where strong, convincing evidence is submitted, proving that the substitute father is no longer in the home and has discontinued his relationship will the factor of deprivation be established. Such evidence would include proof that the man has moved to a distant place, or has been admitted to a public institution. The burden of proof rests on the mother. Testimony of the applicant must be corroborated by law-enforcement officials, friends, neighbors, ministers, grocerymen and similar sources. All evidence in cases involving substitute fathers is submitted to the County Board for determination of whether or not there is a substitute father and whether or not a common-law relationship exists.

Part III—Section V, Page 14

4. *The Mother of an Illegitimate or Bastard Child Must Name the Father and Give Address (Georgia Laws of 1952, Act No. 836)*

In accordance with Georgia law, the mother of an illegitimate or bastard child for whom assistance is requested must, under oath and in writing, name the father and give the last known address. Affidavit as to Paternity, Form 159, will be used.

In situations where the mother is unable to name the father of an illegitimate child she must, under oath and in writing, set forth her reasons for not knowing who the father of her child is and the State Department will construe this fact of eligibility established. The caseworker will prepare necessary affidavit.

PLAINTIFFS' EXHIBIT 10.

Mississippi, Vol. III, Section D, pp. 4512-4513-4516-4517

Effective 9-1-66

GENERAL POLICIES IN AID TO DEPENDENT CHILDREN

Child in Home with Two Able-bodied Parents

When a child is living in the home with two able-bodied parents, he is not eligible even though need exists in the home. While the amendment to the Social Security Act made available federal funds for states to make provision for aid to children of unemployed parents, the Mississippi state statute does not include this provision.

In determining deprivation of parental support or care, the term "parents" means more than the child's own parents (natural parents). A child will not be considered deprived if he lives in the home with the persons listed below if they are able-bodied. These persons are:

1. His own (natural) parents.
2. His own parent and a stepfather or stepmother.
3. His own parent and a man or woman who lives in the home and maintains a marital relationship with the child's parent, even though he or she is not married to the child's own parent, or is not the parent of any of the children in the home.
4. His own parent who maintains a continuing relationship with a man who does not live regularly in the home but who is regarded by the mother as her husband and by the children as their father. The man may be the father of one or more of the children, or of none of them, but assumes the father-role for them.

That is, the children look to the father-person for direction and discipline, for some financial support, and for the assumption of other duties which a father ordinarily performs in the home.

For the discussion of children living with a parent and a disabled person to whom the parent is not legally married, see the discussion below, page 4630, on suitable home conditions. For a child born to a mother and father-person who lived in the home, see the policies on page 4580 below and note the requirement for reporting to the specified court officials with regard to the failure of the mother to establish paternity and obtain support from the putative father.

Definitions and Procedures in Determining Kind of Marriage of Parents

It is necessary to determine the kind of union which the father and mother of a child had, whether statutory ceremonial marriage, a valid common-law marriage, or a nonlegal union. This is necessary for the purposes of:

1. Reporting to law-enforcement officials in specified instances

2. Applying the policies on divorce and legal separation

3. Establishing the previous pattern of living and determining the current suitability of the home.

The worker will make this determination whether the applicant is the parent or another relative who is applying for ADC. The two types of marital unions which are recognized in this State as being legal marriages are: statutory ceremonial marriages and legal common-law marriages. All others are nonlegal unions.

Statutory Ceremonial Marriage. This is a marriage between persons who were legally free to contract a marriage, and one for which a license was secured and a ceremony performed. The minister or officer performing the ceremony usually asks whether the persons are free to marry, and is responsible for completing a portion of the marriage license and returning it to the circuit clerk for recording.

There is legal presumption in favor of a statutory ceremonial marriage. This is in accordance with the marriage laws of the state and with decisions on cases made by the State Supreme Court. For example, rulings such as these have been made:

> Every reasonable presumption will be indulged in favor of validity of ceremonial marriage.
>
> Where a second ceremonial marriage is contracted, every presumption will be indulged in favor of its validity, and the burden of proof is upon party who attacks validity of such marriage to show its invalidity by clear and certain testimony.
>
> The law will not declare invalid or bigamous a marriage which has once been solemnized according to law upon anything less than clear and certain testimony.

In establishing a statutory ceremonial marriage, the worker will:

1. Ask the parent or other relative to describe the kind of marriage ceremony which the parents had.
2. Ask the parent or other relative to show her the marriage license or to tell her in which county the marriage was performed.
3. Check records in the circuit clerk's office for the license as recorded after the minister or officer has completed and returned it.

4. If no record can be found, assist the applicant to secure a statement from the minister or officer who performed the ceremony or from witnesses to the ceremony.

A statutory ceremonial marriage, when thus established, will be recognized when the applicant is uncertain as to whether the spouse of a previous marriage is still living but the mother has remarried. That is, the mother of the children was previously married, but did not obtain a divorce, but has had a ceremonial marriage to another man. Except as discussed below, the statutory ceremonial marriage will be accepted as legal, and the father of the children by this second marriage will be reported if he deserts and aid is granted on behalf of his children.

Children of More than One Father

When an application is made for children who were born of the same father, the deprivation of all these children will be caused by the same factor, whether death, or divorce, or desertion, etc. However, when there are in the group of children for whom aid is requested children of more than one father, the worker must discuss with the remaining parent or other relative the reason for the termination of the marriage or relationship with the father of each child. While this results in a more involved consideration of deprivation and eligibility, it is necessary in order to explore the possibility of support from the child's own parent and also to determine the type of marriage or marital relationships that the parent has engaged in. For additional steps to be taken in determining the deprivation of children of more than

one father, see the discussion immediately below in this subsection.

Examples of the consideration of the loss of parental support or care on the basis of the individual children are:

1. In the case of a mother who has remarried after the death of the father of some of the children and who has been deserted by the father of children from the second marriage, only the father of the children of this second marriage will be reported for desertion and/or nonsupport. A stepfather is not legally responsible for the children of the first marriage and cannot be reported. In this illustration if the mother is not willing to report the desertion by the father of the second marriage then aid must be considered for the children of the first marriage, deprived by reason of the death of the father. See, however, the requirement for a six-months' waiting period on the desertion of the stepfather,

2. In the case described above, the worker will explore the possibility of a Veteran's benefit or eligibility for OASI for the children from the father's wage record.

3. If the mother was divorced from the father of some of the children and after remarriage is deserted by the father of children from the second marriage, she will be required to seek support from the first father through the reopening of the divorce case in order to obtain help from the children by this marriage. See, however, page 4541 below for exceptions to the requirement for the reopening of a case of divorce. This page also covers the steps considered as constituting a bona fide effort to have the case reopened.

Considering Deprivation of Children of More than One Father—Additional Steps

When there are children of more than one father, the worker must explore carefully the reason for the absence of the last father-person or mother-person in the home. The reason that this must be done is that some requirements of law and policy have to be applied against the absence of the last parent-person as it affects the whole group of children in the home. This is an additional step to exploring and establishing the deprivation of children of each father. The policies are:

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1. If the mother has remarried and the stepfather has deserted, the waiting period of six months is required. This will be true whether there were children by this second marriage or not.

2. If the mother had a continuing relationship with a man who lived in the home, or with a man who was the father-person for the children, the six-months' waiting period will be required. See page 4580 below.

3. The marital relationship between the mother and the last father-person in the home (or the father and the mother-person) must be determined in order to evaluate the suitability of the home and in some instances the birth status of the children.

Effect of Awarding of Custody

When the court gives the custody of a child or children to one parent, another relative, or other person, this vests in the person to whom custody is given the legal responsibility for the care, supervision, and protection of the child. The awarding of custody to another person

or agency does not alter the legal and moral responsibility of the parent or parents for financial support of the child, and the court order should include instructions to the parent with regard to the required contributions.

A child will be considered deprived of parental support and care because of the continued absence of the parents when the court has given custody to another person and the other conditions of eligibility are met. The important factor of eligibility here, with the exception given below on this page, is the absence of the parents and not the matter of which parent has custody. That is, if the parents are divorced and one of them has been given custody, the child will be considered eligible, when other factors are met, in the home of other parent. Both will be held responsible for support, and if one parent is absent and not contributing, the usual policy on reporting the deserting parent or on the reopening of a divorce case shall apply.

The court may also award custody to the county welfare department, which is then responsible for the protection of and planning for the child.

Exception. When the youth court has ordered the removal of a child from the home of a parent or other relative because the conditions in this home were considered hazardous to the child's well being, aid shall not be reinstated in this home until the court has again considered the conditions in the home and made another decision; see page 4601 below for this discussion.

In addition to situations in which the court awards custody in connection with cases reported to it under the new legal provisions, the county department should initiate proceedings for a hearing on a charge of neglect and the consideration of the need for custody in instances in which ADC is not involved but the welfare of a child

is at stake. An example of this might be a child in a home in which the relative is an old age assistance client, or another situation in which a public assistance grant is being paid, and the worker observes hazardous conditions for the child. See Volume IV for the discussion of protective services.

PLAINTIFFS' EXHIBIT 13.

Statistics

June, 1964

State of Alabama

Department of Pensions and Security
Montgomery

Publication Dates of Statistics

The publication *STATISTICS* is released to the mailing list for only the last month of each quarter—i. e., March, June, September, December. However, the data as contained in this publication are available on a monthly basis in the offices of the State and County Departments of Pensions and Security.

RUBEN K. KING,
Commissioner.

Statistics

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During the month of June a total of 151,413 cases received through the Department of Pensions and Security payments totaling $9,414,955.85. Of this amount $7,406,290.77 was paid to the aged, $113,905.15 for the blind, $1,077,363.52 to families with dependent children, $60,594.78 for aid to children in foster care--county, $18,889.64 for aid to children in foster care--State, $6,853.00 for aid to children receiving day care, $670,363.30 to the permanently and totally disabled, $1,119.28 to families in need of temporary care, and $59,576.41 for medical assistance for the aged. The average amount of payment per case for the State as a whole was $62.18 as compared with an average of $91.80 for the Nation and $65.32 for the twelve Southern States. 1/

Table 1. NUMBER OF CASES RECEIVING PAYMENT AND AMOUNT OF PAYMENTS TO THESE CASES

JUNE 1964

County	Number of Cases Receiving Payments	Amount of Payments	Average Per Case
GRAND TOTAL 2/	151,413	$9,414,955.85	$62.18
COUNTY TOTAL	151,056	$9,396,066.21	$62.20
Autauga	1,191	72,260.15	60.67
Baldwin	1,752	114,854.74	65.56
Barbour	2,056	115,146.10	56.00
Bibb	1,038	59,653.68	57.47
Blount	1,629	103,526.05	63.55
Bullock	1,078	63,041.65	58.48
Butler	1,741	104,959.69	60.29
Calhoun	3,755	216,100.91	57.53
Chambers	1,886	117,328.22	62.21
Cherokee	795	47,739.63	60.05
Chilton	1,674	102,518.98	61.24
Choctaw	1,367	79,167.03	57.91
Clarke	1,534	93,070.55	60.67
Clay	1,183	77,901.07	65.85
Cleburne	642	38,968.32	60.70
Coffee	1,857	116,942.63	62.97
Colbert	2,091	120,535.35	57.64
Conecuh	1,538	99,720.07	64.84
Coosa	726	44,486.48	61.28
Covington	2,557	159,468.73	62.37
Crenshaw	1,476	94,530.39	64.11
Cullman	2,706	182,539.31	67.46
Dale	1,414	86,352.76	61.07
Dallas	3,606	222,699.25	61.76
DeKalb	2,755	168,498.32	61.16
Elmore	1,417	95,000.24	67.04
Escambia	1,551	94,007.00	60.61
Etowah	3,896	242,032.19	62.12
Fayette	1,211	80,423.12	66.41
Franklin	1,704	108,966.83	63.95

Table 1. (Cont'd) NUMBER OF CASES RECEIVING PAYMENT AND AMOUNT OF PAYMENTS TO THESE CASES

JUNE 1964

County	Number of Cases Receiving Payments	Amount of Payments	Average Per Case
Geneva	1,513	96,965.56	64.09
Greene	1,140	68,266.65	59.88
Hale	1,378	83,838.64	60.84
Henry	1,059	63,843.61	60.29
Houston	2,639	162,483.62	61.57
Jackson	2,209	133,968.34	60.65
Jefferson	17,806	1,130,606.34	63.50
Lamar	1,320	88,368.79	66.95
Lauderdale	2,645	168,121.35	63.56
Lawrence	2,012	122,747.22	61.01
Lee	1,773	112,558.83	63.48
Limestone	2,043	122,785.97	60.10
Lowndes	1,110	67,808.66	61.09
Macon	1,081	68,478.79	63.35
Madison	3,673	214,822.81	58.49
Marengo	1,784	109,537.57	61.40
Marion	1,963	125,067.80	63.71
Marshall	2,583	163,129.43	63.16
Mobile	7,984	495,605.54	62.07
Monroe	1,279	76,404.97	59.74
Montgomery	4,447	290,469.85	65.32
Morgan	3,093	202,551.45	65.49
Perry	1,284	78,767.66	61.35
Pickens	2,026	124,741.62	61.57
Pike	1,346	79,906.15	59.37
Randolph	1,355	88,099.83	65.02
Russell	1,935	119,015.67	61.51
Saint Clair	1,317	85,982.22	65.29
Shelby	1,624	101,064.86	62.23
Sumter	1,563	93,122.06	59.58
Talladega	3,608	221,952.97	61.52
Tallapoosa	2,445	167,936.22	68.69
Tuscaloosa	4,848	291,414.58	60.11
Walker	4,064	247,559.32	60.92
Washington	915	59,863.20	65.42
Wilcox	1,250	73,081.10	58.46
Winston	1,115	72,585.52	65.10

1/ Data for Nation and Southern States secured from information released by the Welfare Administration for the month of April 1964.

2/ Includes 357 juvenile wards who received $18,889.64 through the State Department.

OLD AGE PENSIONS

During the month of June there were 110,275 cases who received a total of $7,406,290.77 in old age payments. The average monthly payment per case for the State as a whole was $67.15 as compared with an average of $78.40 for the Nation and $64.90 for the twelve Southern States. 1/ Reference is made to the September 1963 issue of Statistics, Table 16, for the most recent release by the Social Security Administration on the number of old age recipients per 1,000 aged population for the Nation and twelve Southern States.

Table 2. OLD AGE PENSIONS

JUNE 1964

County	No. of Cases Receiving Payment	Amount of Payments				Average Per Case 2/
		Total	Money Payments	Vendor Payments Medical Care	Other	
TOTAL	110,275	$7,406,290.77	$6,428,567.00	$977,577.17	$146.60	$67.16
Autauga	869	57,948.65	50,526.00	7,422.65	.00	66.68
Baldwin	1,921	94,249.03	73,264.00	20,985.03	.00	71.35
Barbour	1,287	83,061.60	79,833.00	3,228.60	.00	64.54
Bibb	700	44,279.18	41,173.00	3,106.18	.00	63.26
Blount	1,297	88,617.72	78,772.00	9,845.72	.00	68.33
Bullock	859	53,153.88	51,530.00	1,616.38	7.50	61.88
Butler	1,328	86,280.69	80,888.00	5,392.69	.00	64.97
Calhoun	2,446	151,842.48	136,537.00	15,282.48	23.00	62.08
Chambers	1,381	92,801.41	76,474.00	16,327.41	.00	67.20
Cherokee	629	39,896.61	34,890.00	5,006.61	.00	63.43
Chilton	1,366	88,019.81	78,885.00	9,134.81	.00	64.44
Choctaw	923	58,449.38	53,870.00	4,579.38	.00	63.33
Clarke	1,202	77,720.32	68,226.00	9,494.32	.00	64.66
Clay	951	65,608.37	55,847.00	9,761.37	.00	68.99
Cleburne	486	31,789.32	28,269.00	3,520.32	.00	65.41
Coffee	1,316	92,174.83	80,123.00	12,051.83	.00	70.04
Colbert	1,478	91,271.31	86,588.00	4,683.31	.00	61.75
Conecuh	1,209	82,786.87	75,331.00	7,455.87	.00	68.48
Coosa	523	35,619.48	29,992.00	5,627.48	.00	68.11
Covington	1,944	130,064.65	113,384.00	16,680.65	.00	66.91
Crenshaw	1,070	74,859.29	65,498.00	8,357.69	3.60	69.96
Cullman	2,220	159,634.04	130,353.00	29,281.04	.00	71.91
Dale	989	66,375.95	60,623.00	5,752.95	.00	67.11
Dallas	2,551	171,227.77	151,943.00	19,284.77	.00	67.12
DeKalb	2,045	135,669.41	120,420.00	15,249.41	.00	66.34
Elmore	1,158	81,695.29	65,647.00	16,048.29	.00	70.55
Escambia	1,299	81,851.92	74,232.00	7,619.92	.00	63.01
Etowah	2,854	190,880.21	160,947.00	29,933.21	.00	66.65
Fayette	992	69,849.12	59,633.00	10,216.12	.00	70.41
Franklin	1,291	90,209.12	76,110.00	14,099.12	.00	69.88

Table 2. (Cont'd) OLD AGE PENSIONS

JUNE 1964

County	No. of Cases Receiving Payment	Amount of Payments				Average Per Case 2/
		Total	Money Payments	Vendor Payments Medical Care	Other	
Geneva	1,155	79,580.20	67,004.00	12,576.20	.00	68.90
Greene	883	55,843.20	51,382.00	4,461.20	.00	63.24
Hale	1,077	69,214.70	65,096.00	4,118.70	.00	64.27
Henry	767	49,892.65	46,903.00	2,989.65	.00	65.05
Houston	1,961	129,288.37	117,050.00	12,238.37	.00	65.93
Jackson	1,569	104,793.50	95,777.00	9,016.50	.00	66.79
Jefferson	13,031	882,247.19	728,823.00	153,424.19	.00	67.70
Lamar	972	72,711.29	61,454.00	11,257.29	.00	74.81
Lauderdale	2,001	137,365.00	117,578.00	19,787.00	.00	68.65
Lawrence	1,315	89,858.72	78,611.00	11,247.72	.00	68.33
Lee	1,407	95,832.63	80,263.00	15,569.63	.00	68.11
Limestone	1,412	93,443.47	86,793.00	6,650.47	.00	66.18
Lowndes	811	53,157.66	50,058.00	3,099.66	.00	65.55
Macon	935	60,992.49	54,218.00	6,774.49	.00	65.23
Madison	2,506	158,397.83	149,237.00	9,160.83	.00	63.21
Marengo	1,372	90,189.36	82,635.00	7,554.36	.00	65.74
Marion	1,467	103,239.97	84,505.00	18,734.97	.00	70.37
Marshall	1,920	131,317.00	113,863.00	17,454.00	.00	68.39
Mobile	5,004	332,211.45	283,136.00	49,053.45	22.00	66.39
Monroe	1,058	65,668.86	60,441.00	5,227.86	.00	62.07
Montgomery	3,566	244,730.26	211,122.00	33,527.76	80.50	68.63
Morgan	2,180	158,535.95	125,677.00	32,858.95	.00	72.72
Perry	1,022	66,668.86	59,033.00	7,635.86	.00	65.23
Pickens	1,334	91,544.62	81,667.00	9,877.62	.00	68.62
Pike	1,142	70,829.03	63,869.00	6,960.03	.00	62.02
Randolph	1,135	76,565.52	65,155.00	11,410.52	.00	67.46
Russell	1,502	100,106.32	91,663.00	8,443.32	.00	66.65
Saint Clair	1,016	71,556.22	55,020.00	16,536.22	.00	70.43
Shelby	1,212	80,198.86	69,622.00	10,576.86	.00	66.17
Sumter	1,200	76,491.13	71,050.00	5,441.13	.00	63.74
Talladega	2,404	162,764.14	139,088.00	23,676.14	.00	67.71
Tallapoosa	1,713	132,054.88	97,155.00	34,889.88	10.00	77.09
Tuscaloosa	3,080	204,873.98	182,046.00	22,827.98	.00	66.52
Walker	2,656	178,163.23	153,663.00	24,500.23	.00	67.08
Washington	681	48,128.28	41,095.00	7,033.28	.00	70.67
Wilcox	1,010	62,224.22	60,449.00	1,775.22	.00	61.61
Winston	805	57,722.02	45,558.00	12,164.02	.00	71.70

1/ Data for Nation and Southern States secured from information released by the Welfare Administration for the month of April 1964.

2/ Based on 110,275 OAP recipients, average vendor payment per recipient for medical care for the month of June was $8.86 including a small amount from local public funds.

Table 2a. VENDOR PAYMENTS FOR MEDICAL CARE FOR RECIPIENTS OF OLD AGE PENSIONS

JUNE 1964

County	Vendor Payments for Medical Care for Old Age Pension Recipients							
	Total Payments	Nursing Home Care		Hospitalization		Physicians' Services 1/		Other 2/
		Number of Cases	Amount of Payments	Number of Cases	Amount of Payments	Number of Cases	Amount of Payments	
TOTAL	$977,577.17	3,363	$500,859.00	2,010	$471,708.67	600	$4,883.00	$126.50
Autauga	7,422.65	28	4,695.00	16	2,712.65	1	15.00	.00
Baldwin	20,985.03	82	10,459.00	48	10,427.03	8	99.00	.00
Barbour	3,228.60	4	507.00	14	2,721.60	0	.00	.00
Bibb	3,106.18	4	580.00	10	2,526.18	0	.00	.00
Blount	9,845.72	18	3,018.00	32	6,827.72	0	.00	.00
Bullock	1,616.38	3	365.00	8	1,251.38	0	.00	.00
Butler	5,392.69	11	1,635.00	21	3,677.69	8	80.00	.00
Calhoun	15,282.48	11	1,611.00	46	13,536.48	5	35.00	.00
Chambers	16,327.41	71	11,345.00	21	4,787.41	31	195.00	.00
Cherokee	5,006.61	2	195.00	19	4,791.61	2	20.00	.00
Chilton	9,134.81	0	.00	40	9,134.81	0	.00	.00
Choctaw	4,579.38	0	.00	21	4,534.38	3	45.00	.00
Clarke	9,494.32	22	2,984.00	30	6,385.32	9	125.00	.00
Clay	9,761.37	32	4,877.00	23	4,844.37	4	40.00	.00
Cleburne	3,520.32	3	379.00	13	3,061.32	6	80.00	.00
Coffee	12,051.83	27	4,421.00	36	7,553.33	12	77.50	.00
Colbert	4,683.31	0	.00	19	4,633.31	6	50.00	.00
Conecuh	7,455.87	12	1,945.00	30	5,490.87	2	20.00	.00
Coosa	5,627.48	16	2,504.00	13	3,058.48	9	65.00	.00
Covington	16,680.65	60	8,981.00	40	7,555.65	18	144.00	.00
Crenshaw	8,357.69	29	4,142.00	27	4,182.69	8	30.00	.00
Cullman	29,281.04	90	15,583.00	56	13,638.04	8	60.00	.00
Dale	5,752.95	5	465.00	19	5,257.95	3	30.00	.00
Dallas	19,284.77	84	11,689.00	36	7,590.77	1	5.00	.00
DeKalb	15,249.41	41	6,395.00	37	8,709.41	13	145.00	.00
Elmore	16,048.29	69	10,096.00	24	5,900.29	4	52.00	.00
Escambia	7,619.92	22	3,219.00	26	4,361.92	3	39.00	.00
Etowah	29,933.21	112	17,738.00	35	12,090.21	19	105.00	.00
Fayette	10,216.12	36	5,751.00	27	4,455.12	0	.00	.00
Franklin	14,099.12	63	9,732.00	23	4,327.12	3	40.00	.00
Geneva	12,576.20	23	3,666.00	36	8,800.20	8	110.00	.00
Greene	4,461.20	7	715.00	19	3,701.20	3	45.00	.00
Hale	4,118.70	15	1,794.00	14	2,279.70	3	45.00	.00
Henry	2,989.65	2	340.00	13	2,604.65	3	45.00	.00
Houston	12,238.37	29	4,850.00	28	7,353.37	7	35.00	.00

Table 2a. (Cont'd) VENDOR PAYMENTS FOR MEDICAL CARE FOR RECIPIENTS OF OLD AGE PENSIONS

JUNE 1964

County	Total Payments	Vendor Payments for Medical Care for Old Age Pension Recipients: Nursing Home Care: Number of Cases	Nursing Home Care: Amount of Payments	Hospitalization: Number of Cases	Hospitalization: Amount of Payments	Physicians' Services 1/: Number of Cases	Physicians' Services 1/: Amount of Payments	Other 2/
Jackson	9,016.50	17	2,609.00	37	6,218.50	14	189.00	.00
Jefferson	153,424.19	713	104,153.00	146	48,851.19	56	293.50	126.50
Lamar	11,257.29	10	1,720.00	30	9,387.29	12	150.00	.00
Lauderdale	19,787.00	82	12,312.00	33	7,362.50	10	112.50	.00
Lawrence	11,247.72	32	5,328.00	28	5,919.72	0	.00	.00
Lee	15,569.63	74	11,068.00	20	4,481.63	2	20.00	.00
Limestone	6,650.47	4	548.00	27	6,102.47	0	.00	.00
Lowndes	3,099.66	4	592.00	10	2,482.66	3	25.00	.00
Macon	6,774.49	19	2,867.00	12	3,892.49	3	15.00	.00
Madison	9,160.83	35	4,585.00	20	4,535.83	5	40.00	.00
Marengo	7,554.36	14	2,055.00	15	5,494.36	1	5.00	.00
Marion	18,334.97	62	10,050.00	55	8,139.97	51	545.00	.00
Marshall	17,454.00	51	8,636.00	40	8,758.00	4	60.00	.00
Mobile	49,053.45	199	25,238.00	70	23,660.45	30	155.00	.00
Monroe	5,227.86	21	3,042.00	12	2,150.86	4	35.00	.00
Montgomery	33,527.76	152	22,694.00	33	10,651.26	32	182.50	.00
Morgan	32,858.95	140	22,556.00	46	10,292.95	2	10.00	.00
Perry	7,635.86	15	2,354.00	22	5,201.86	5	80.00	.00
Pickens	9,877.62	14	2,041.00	27	7,765.62	6	71.00	.00
Pike	6,960.03	10	1,494.00	26	5,461.03	1	5.00	.00
Randolph	11,410.62	51	7,500.00	26	3,811.62	17	92.00	.00
Russell	8,443.32	22	3,122.00	30	5,306.32	3	15.00	.00
Saint Clair	16,536.22	86	12,472.00	12	4,029.22	5	35.00	.00
Shelby	10,576.86	15	2,309.00	25	8,242.86	5	25.00	.00
Sumter	5,471.13	8	905.00	20	4,483.63	5	52.50	.00
Talladega	23,675.14	77	12,062.00	56	11,519.14	15	95.00	.00
Tallapoosa	34,889.88	186	28,351.00	27	6,243.88	58	295.00	.00
Tuscaloosa	22,827.98	68	10,058.00	49	12,715.98	4	53.00	.00
Walker	24,500.23	82	11,449.00	30	13,001.23	10	48.00	.00
Washington	7,[illegible]	6	735.00	21	[illegible]	7	65.00	.00
Wilcox	1,775.22	9	1,030.00	7	745.22	0	.00	.00
Winston	12,164.02	52	8,248.00	28	3,685.52	21	230.50	.00

1/ The Physicians' Services program was initiated on February 1, 1962.

2/ Vendor Payments from local public funds.

MEDICAL ASSISTANCE FOR THE AGED

During the month of June there were 235 cases who received medical assistance for the aged with the amount of payments totaling $59,576.41. These payments are to persons 65 or older, not receiving old age assistance, and who meet certain other eligibility requirements.

Table 3. MEDICAL ASSISTANCE FOR THE AGED 1/

JUNE 1964

County	TOTAL No. of Cases	TOTAL Amount of Payments	HOSPITALIZATION No. of Cases	HOSPITALIZATION Amount of Payments	PHYSICIANS' SERVICES No. of Cases	PHYSICIANS' SERVICES Amount of Payments	Average Per Case
TOTAL	235 2/	$59,576.41	218	$59,281.41	23	$295.00	$253.52
Autauga	0	.00	0	.00	0	.00	.00
Baldwin	2	256.71	2	256.71	0	.00	128.36
Barbour	0	.00	0	.00	0	.00	.00
Bibb	0	.00	0	.00	0	.00	.00
Blount	4	536.27	4	536.27	0	.00	134.07
Bullock	0	.00	0	.00	0	.00	.00
Butler	0	.00	0	.00	0	.00	.00
Calhoun	10	1,930.23	10	1,915.23	1	15.00	193.02
Chambers	5	1,092.81	5	1,092.81	0	.00	218.56
Cherokee	3	849.32	3	849.32	0	.00	283.11
Chilton	5	1,736.17	4	1,726.17	1	10.00	347.23
Choctaw	3	310.76	3	310.76	0	.00	103.59
Clarke	4	1,287.73	4	1,287.73	0	.00	321.93
Clay	1	1,055.70	1	1,055.70	0	.00	1,055.70
Cleburne	0	.00	0	.00	0	.00	.00
Coffee	1	142.80	1	142.80	0	.00	142.80
Colbert	3	554.04	3	554.04	0	.00	184.68
Conecuh	1	563.20	1	563.20	0	.00	563.20
Coosa	0	.00	0	.00	0	.00	.00
Covington	3	1,491.55	3	1,491.55	0	.00	497.18
Crenshaw	5	800.10	4	785.10	1	15.00	160.02
Cullman	5	1,012.62	5	1,012.62	0	.00	202.52
Dale	5	1,089.31	5	1,089.31	0	.00	217.86
Dallas	7	1,625.98	7	1,625.98	0	.00	232.28
DeKalb	0	.00	0	.00	0	.00	.00
Elmore	8	1,626.95	6	1,591.95	3	35.00	203.37
Escambia	4	1,248.08	4	1,248.08	0	.00	312.02
Etowah	3	1,563.59	3	1,563.59	0	.00	521.20
Fayette	1	280.00	1	280.00	0	.00	280.00
Franklin	1	57.21	1	57.21	0	.00	57.21
Geneva	8	1,585.36	7	1,550.36	3	35.00	198.17
Greene	2	781.45	2	781.45	0	.00	390.73
Hale	1	164.94	1	164.94	0	.00	164.94
Henry	2	822.96	2	822.96	0	.00	411.48
Houston	6	1,579.46	5	1,569.46	1	10.00	263.24
Jackson	5	581.43	5	561.43	1	20.00	116.29
Jefferson	11	4,390.46	11	4,390.46	0	.00	399.13
Lamar	0	.00	0	.00	0	.00	.00
Lauderdale	4	808.35	4	808.35	0	.00	202.09
Lawrence	2	205.00	2	205.00	0	.00	102.50

Table 3. (Cont'd) MEDICAL ASSISTANCE FOR THE AGED 1/

JUNE 1964

County	TOTAL No. of Cases	TOTAL Amount of Payments	HOSPITALIZATION No. of Cases	HOSPITALIZATION Amount of Payments	PHYSICIANS' SERVICES No. of Cases	PHYSICIANS' SERVICES Amount of Payments	Average Per Case
Lee	0	.00	0	.00	0	.00	.00
Limestone	2	15.00	0	.00	2	15.00	7.50
Lowndes	0	.00	0	.00	0	.00	.00
Macon	1	108.30	1	108.30	0	.00	108.30
Madison	2	206.65	2	206.65	0	.00	103.33
Marengo	7	1,333.71	7	1,333.71	0	.00	190.53
Marion	2	20.00	0	.00	2	20.00	10.00
Marshall	3	994.47	3	994.47	0	.00	331.49
Mobile	30	10,326.63	28	10,291.63	2	35.00	344.22
Monroe	1	71.11	1	71.11	0	.00	71.11
Montgomery	14	4,617.12	14	4,617.12	0	.00	329.79
Morgan	0	.00	0	.00	0	.00	.00
Perry	3	304.80	2	289.80	1	15.00	101.60
Pickens	2	303.00	1	288.00	1	15.00	151.50
Pike	1	391.32	1	391.32	0	.00	391.32
Randolph	2	835.01	2	835.01	0	.00	417.51
Russell	10	1,447.44	8	1,402.44	3	45.00	144.74
Saint Clair	0	.00	0	.00	0	.00	.00
Shelby	1	1,211.40	1	1,211.40	0	.00	1,211.40
Sumter	1	164.94	1	164.94	0	.00	164.94
Talladega	6	1,084.33	5	1,074.33	1	10.00	180.72
Tallapoosa	3	806.01	3	806.01	0	.00	268.67
Tuscaloosa	8	1,812.00	8	1,812.00	0	.00	226.50
Walker	6	573.93	6	573.93	0	.00	95.66
Washington	4	695.82	4	695.82	0	.00	173.96
Wilcox	1	222.88	1	222.88	0	.00	222.88
Winston	0	.00	0	.00	0	.00	.00

1/ Medical Assistance for the Aged program was initiated in Alabama by the State Department of Pensions and Security on February 1, 1962. In addition to payments for hospitalization for acute illness and/or major injury not to exceed 30 days for each fiscal year, the MAA program also provides for payments not to exceed $15.00 to the patient's physician in return for office visits made within 30 days following the patient's discharge from the hospital. Not more than $5.00 can be paid for each office visit. These visits must be related directly or indirectly to the hospitalization.

2/ In instances where a vendor payment for Hospitalization and, also, a vendor payment for Physicians' Services has been made during the same month in behalf of the same individual, the case is counted only once under Total Number of Cases.

AID TO BLIND

There were during June 1,761 aid to blind cases with an average of 1.00 persons per case who received payments totaling $113,905.15 or an average of $64.68 per case as compared with an average of $83.66 for the Nation and $64.04 for the twelve Southern States. 1/ Reference is made to the September 1963 issue of Statistics, Table 18, for the most recent release by the Social Security Administration on the number of aid to blind recipients per 100,000 population aged 18 and over for the Nation and twelve Southern States.

Table 4. AID TO BLIND

JUNE 1964

County	No. of Cases Receiving Payment		Amount of Payments				Average Per Case 4/
	Total	Nursing Home Care 2/	Total	Money Payments	Vendor Payments: Nursing Home Care	Vendor Payments: Other 3/	
TOTAL	1,761	28	$113,905.15	$109,592.00	$4,205.00	$108.15	$64.68
Autauga	14	0	942.00	942.00	.00	.00	67.29
Baldwin	28	0	1,864.00	1,864.00	.00	.00	66.57
Barbour	19	0	1,172.00	1,172.00	.00	.00	61.68
Bibb	11	0	613.00	613.00	.00	.00	55.73
Blount	10	0	554.00	554.00	.00	.00	55.40
Bullock	10	0	550.00	550.00	.00	.00	55.00
Butler	19	0	1,329.00	1,329.00	.00	.00	69.95
Calhoun	33	0	1,832.00	1,832.00	.00	.00	55.52
Chambers	24	2	1,748.00	1,448.00	300.00	.00	72.83
Cherokee	5	0	289.00	289.00	.00	.00	57.80
Chilton	20	0	1,200.00	1,200.00	.00	.00	60.00
Choctaw	25	0	1,473.00	1,473.00	.00	.00	58.92
Clarke	14	0	730.00	730.00	.00	.00	52.14
Clay	12	0	775.00	775.00	.00	.00	64.58
Cleburne	5	0	283.00	283.00	.00	.00	56.60
Coffee	38	1	2,776.00	2,601.00	175.00	.00	73.05
Colbert	23	0	1,510.00	1,510.00	.00	.00	65.65
Conecuh	15	0	1,046.00	1,046.00	.00	.00	69.73
Coosa	7	0	477.00	477.00	.00	.00	68.14
Covington	40	0	2,800.00	2,800.00	.00	.00	70.00
Crenshaw	9	0	596.00	596.00	.00	.00	66.22
Cullman	18	0	1,126.00	1,126.00	.00	.00	62.56
Dale	29	0	1,775.00	1,775.00	.00	.00	61.21
Dallas	36	0	2,352.00	2,352.00	.00	.00	65.33
DeKalb	30	0	1,555.00	1,555.00	.00	.00	51.83
Elmore	17	1	1,144.00	969.00	175.00	.00	67.29
Escambia	16	0	1,097.00	1,097.00	.00	.00	68.56
Etowah	36	1	2,531.15	2,248.00	175.00	108.15	70.31
Fayette	17	0	1,126.00	1,126.00	.00	.00	66.24
Franklin	20	1	1,160.00	1,035.00	125.00	.00	58.00

Table 4. (Cont'd) AID TO BLIND

JUNE 1964

County	No. of Cases Receiving Payment		Amount of Payments				
	Total	Nursing Home Care 2/	Total	Money Payments	Vendor Payments Nursing Home Care	Vendor Payments Other 3/	Average Per Case 4/
Geneva	36	0	2,320.00	2,320.00	.00	.00	64.44
Greene	9	0	585.00	585.00	.00	.00	65.00
Hale	17	0	1,189.00	1,189.00	.00	.00	69.94
Henry	11	0	785.00	785.00	.00	.00	71.36
Houston	45	0	3,023.00	3,023.00	.00	.00	67.18
Jackson	28	0	1,686.00	1,686.00	.00	.00	60.21
Jefferson	249	13	15,685.00	13,839.00	1,846.00	.00	62.99
Lamar	14	0	1,017.00	1,017.00	.00	.00	72.64
Lauderdale	29	0	1,646.00	1,646.00	.00	.00	56.76
Lawrence	13	0	822.00	822.00	.00	.00	63.23
Lee	16	0	966.00	966.00	.00	.00	60.38
Limestone	34	0	2,223.00	2,223.00	.00	.00	65.38
Lowndes	8	0	606.00	606.00	.00	.00	75.75
Macon	11	0	641.00	641.00	.00	.00	58.27
Madison	35	0	2,210.00	2,210.00	.00	.00	63.14
Marengo	10	0	577.00	577.00	.00	.00	57.70
Marion	22	1	1,670.00	1,495.00	175.00	.00	75.91
Marshall	24	0	1,507.00	1,507.00	.00	.00	62.79
Mobile	99	0	6,328.00	6,328.00	.00	.00	63.92
Monroe	9	0	601.00	601.00	.00	.00	66.78
Montgomery	73	3	4,932.00	4,507.00	425.00	.00	67.56
Morgan	22	3	1,703.00	1,178.00	525.00	.00	77.41
Perry	14	0	879.00	879.00	.00	.00	62.79
Pickens	16	0	1,078.00	1,078.00	.00	.00	67.38
Pike	9	0	637.00	637.00	.00	.00	70.77
Randolph	18	0	1,116.00	1,116.00	.00	.00	62.00
Russell	20	0	1,334.00	1,334.00	.00	.00	66.70
Saint Clair	15	0	867.00	867.00	.00	.00	57.80
Shelby	18	0	1,268.00	1,268.00	.00	.00	70.44
Sumter	21	0	1,424.00	1,424.00	.00	.00	67.81
Talladega	71	0	4,481.00	4,481.00	.00	.00	63.11
Tallapoosa	23	2	1,934.00	1,650.00	284.00	.00	84.09
Tuscaloosa	57	0	3,669.00	3,669.00	.00	.00	64.37
Walker	32	0	2,013.00	2,013.00	.00	.00	62.91
Washington	6	0	342.00	342.00	.00	.00	57.00
Wilcox	16	0	1,086.00	1,086.00	.00	.00	67.88
Winston	11	0	630.00	630.00	.00	.00	57.27

1/ Data for Nation and Southern States secured from information released by the Welfare Administration for the month of April 1964.

2/ Cases receiving vendor payments for nursing home care from State and Federal funds.

3/ Payments from local funds only.

4/ Based on 1,761 AB cases, average payment per AB case for nursing home care from State and Federal funds for June was $2.39.

AID TO DEPENDENT CHILDREN

A total of 22,373 families of dependent children with an average of 4.12 recipients per family received payments totaling $1,077,363.52 for the month of June. In these 22,373 families there were 92,124 recipients, including 72,764 children, who received payment. The average monthly payment was $11.69 per recipient as compared with an average of $32.75 for the Nation and $19.12 for the twelve Southern States. 1/ Reference is made to the September 1963 issue of Statistics, Table 17, for the most recent release by the Social Security Administration on the number of children receiving aid to dependent children per 1,000 population under 18 years of age for the Nation and twelve Southern States.

Table 5. AID TO DEPENDENT CHILDREN

JUNE 1964

County	NUMBER RECEIVING PAYMENTS			Amount of Payments	AVERAGE PAYMENT	
	Families	Recipients Total	Recipients Children		Per Family	Per Recipient
TOTAL 2/	22,373	92,124	72,764 3/	$1,077,363.52	$48.15	$11.69
Autauga	200	839	665	8,706.00	43.53	10.38
Baldwin	245	1,050	852	11,332.00	46.25	10.79
Barbour	485	1,856	1,462	19,954.00	41.14	10.75
Bibb	183	795	630	9,211.00	50.33	11.59
Blount	165	595	448	7,334.00	44.45	12.33
Bullock	120	515	422	5,825.27	48.54	11.31
Butler	231	989	791	10,949.00	47.40	11.07
Calhoun	858	3,521	2,770	43,806.70	51.06	12.44
Chambers	283	1,186	938	12,961.00	45.80	10.93
Cherokee	84	298	228	3,511.50	41.80	11.78
Chilton	142	527	403	6,026.00	42.44	11.43
Choctaw	255	1,088	877	12,317.89	48.31	11.32
Clarke	196	882	721	8,884.00	45.33	10.07
Clay	102	369	283	4,441.00	43.54	12.04
Cleburne	66	229	173	3,011.00	45.62	13.15
Coffee	269	1,014	798	11,800.00	43.87	11.64
Colbert	383	1,591	1,244	18,971.00	49.53	11.92
Conecuh	152	614	521	8,017.00	52.74	12.45
Coosa	115	395	299	4,577.00	39.80	11.59
Covington	274	982	758	11,664.00	42.57	11.88
Crenshaw	217	877	689	10,019.00	46.17	11.42
Cullman	229	783	573	9,683.00	42.28	12.37
Dale	213	817	637	9,266.00	43.50	11.34
Dallas	616	2,763	2,228	30,736.00	49.90	11.12
DeKalb	357	1,221	909	16,184.80	45.34	13.26
Elmore	96	415	336	4,511.00	46.99	10.87
Escambia	108	423	344	4,872.00	45.11	11.52
Etowah	546	2,091	1,598	25,774.20	47.21	12.33
Fayette	106	390	297	4,846.00	45.72	12.43
Franklin	187	652	476	8,178.00	43.73	12.54

Table 5. (Cont'd) AID TO DEPENDENT CHILDREN

JUNE 1964

County	NUMBER RECEIVING PAYMENTS			Amount of Payments	AVERAGE PAYMENT	
	Families	Recipients Total	Children		Per Family	Per Recipient
Geneva	158	694	558	7,288.00	46.13	10.50
Greene	167	706	573	7,830.00	46.89	11.09
Hale	187	830	679	9,398.00	50.26	11.32
Henry	166	670	530	7,285.00	43.89	10.87
Houston	358	1,484	1,170	15,783.00	44.09	10.64
Jackson	330	1,239	949	14,751.00	44.70	11.91
Jefferson	2,691	11,509	9,127	137,654.00	51.15	11.96
Lamar	168	592	454	7,337.00	43.67	12.39
Lauderdale	323	1,302	1,012	15,911.00	49.25	12.22
Lawrence	427	1,748	1,362	20,140.00	47.17	11.52
Lee	184	773	628	8,634.00	46.92	11.17
Limestone	342	1,389	1,109	15,655.00	45.77	11.27
Lowndes	185	916	747	9,689.00	52.37	10.58
Macon	78	356	304	4,444.00	56.97	12.14
Madison	721	3,036	2,400	35,790.59	49.64	11.79
Marengo	256	1,169	952	12,223.00	47.75	10.46
Marion	201	716	532	8,626.00	42.92	12.05
Marshall	294	1,045	793	13,804.00	46.95	13.21
Mobile	1,911	8,829	7,122	104,354.00	54.61	11.82
Monroe	112	542	447	5,792.00	51.71	10.69
Montgomery	377	1,582	1,279	17,783.00	47.17	11.24
Morgan	463	1,755	1,369	21,678.10	46.82	12.35
Perry	156	705	566	6,975.00	44.71	9.89
Pickens	445	1,871	1,508	21,851.00	49.10	11.68
Pike	103	446	352	4,683.80	45.47	10.50
Randolph	58	258	209	3,063.65	52.82	11.87
Russell	193	783	625	7,361.00	38.14	9.40
Saint Clair	121	427	319	5,379.00	44.45	12.60
Shelby	221	848	656	10,327.00	46.73	12.18
Sumter	220	954	776	10,154.00	46.15	10.64
Talladega	681	2,841	2,242	33,893.00	49.77	11.93
Tallapoosa	340	1,266	982	13,577.02	39.93	10.72
Tuscaloosa	1,157	4,716	3,724	56,867.00	49.15	12.06
Walker	747	2,971	2,277	38,191.00	51.13	12.85
Washington	106	458	366	5,243.00	49.46	11.45
Wilcox	129	513	409	5,754.00	44.60	11.22
Winston	114	378	282	4,825.00	42.32	12.76

1/ Data for Nation and Southern States secured from information released by Welfare Administration for month of April 1964.

2/ In some instances payments were made for care of some of these children in Day Care Centers or in Family Day Care Homes in instances where the grantee relative was working away from home part of the day.

3/ Includes 12 children receiving Aid to Dependent Children--Foster Family Care Payments totaling $427.00. These children were removed from 6 ADC families.

-- AID TO CHILDREN --

AID TO CHILDREN IN FOSTER CARE

Children receiving aid through foster care provided through county departments of pensions and security numbered 1,704 for June with the amount of payments totaling $60,594.78 or an average of $35.56 per child.

Table 6. AID TO CHILDREN IN FOSTER CARE 1/

JUNE 1964

County	Number of Children	Amount of Payments	Average Per Child 2/
TOTAL	1,704	$60,594.78	$35.56
Autauga	2	70.00	35.00
Baldwin	6	214.00	35.67
Barbour	29	904.00	31.17
Bibb	13	340.00	26.15
Blount	11	342.51	31.14
Bullock	4	161.50	40.38
Butler	27	829.00	30.70
Calhoun	89	3,118.50	35.04
Chambers	6	226.00	37.67
Cherokee	9	427.20	2/
Chilton	2	70.00	35.00
Choctaw	12	345.00	28.75
Clarke	13	435.00	33.46
Clay	2	70.00	35.00
Cleburne	5	175.00	35.00
Coffee	7	100.00	14.29
Colbert	12	384.00	32.00
Conecuh	14	490.00	35.00
Coosa	9	315.00	35.00
Covington	23	717.53	31.20
Crenshaw	19	661.00	34.79
Cullman	29	1,125.65	38.82
Dale	12	377.00	31.42
Dallas	47	1,522.00	32.38
DeKalb	23	1,002.11	43.57
Elmore	30	1,000.00	33.33
Escambia	27	933.00	34.56
Etowah	30	1,773.89	2/
Fayette	0	.00	.00
Franklin	13	455.00	35.00

Table 6. (Cont'd) AID TO CHILDREN IN FOSTER CARE 1/

JUNE 1964

County	Number of Children	Amount of Payments	Average Per Child 2/
Geneva	4	140.00	35.00
Greene	1	35.00	35.00
Hale	4	125.00	31.25
Henry	1	35.00	35.00
Houston	8	396.79	2/
Jackson	32	1,223.91	38.25
Jefferson	327	11,090.81	33.92
Lamar	1	35.00	35.00
Lauderdale	40	1,352.00	33.80
Lawrence	25	789.00	31.56
Lee	11	339.20	30.84
Limestone	7	179.00	25.57
Lowndes	18	630.00	35.00
Macon	0	.00	.00
Madison	38	1,312.74	34.55
Marengo	7	175.00	25.00
Marion	8	288.83	36.10
Marshall	53	1,651.96	31.17
Mobile	173	6,532.46	37.76
Monroe	1	35.00	35.00
Montgomery	35	1,300.97	37.17
Morgan	94	3,213.40	34.19
Perry	3	115.00	38.33
Pickens	5	97.00	19.40
Pike	8	280.00	35.00
Randolph	15	684.65	2/
Russell	14	560.41	40.03
Saint Clair	23	762.00	33.13
Shelby	12	443.60	36.97
Sumter	10	382.99	38.30
Talladega	33	1,092.00	33.09
Tallapoosa	20	758.81	37.94
Tuscaloosa	86	3,440.60	40.01
Walker	40	1,290.66	32.27
Washington	13	791.10	2/
Wilcox	0	.00	.00
Winston	9	231.00	25.67

1/ Excludes those children reported in foster care whose board is paid from private funds.

2/ Averages are not representative in some counties as children were sometimes in boarding homes for only part of the month. Also, in other instances payments are higher than usual due to unusual care required because of special needs.

AID TO CHILDREN RECEIVING DAY CARE

Payments by the Department for day care of children totaled $6,853.00 for 225 children for the month of June. This included payments totaling $6,102.00 for 189 children in Day Care Centers and $751.00 for 40 children in Day Care Homes. The average monthly payment per child for the State as a whole was $30.32.

Table 7. · AID TO CHILDREN RECEIVING DAY CARE

JUNE 1964

County	TOTAL		DAY CARE CENTERS		FAMILY DAY CARE HOMES	
	No. of Children	Amount of Payments	No. of Children	Amount of Payments	No. of Children	Amount of Payments
TOTAL	226 1/	$6,853.00	189	$6,102.00	40	$751.00
Autauga	2	66.00	2	66.00	0	.00
Baldwin	0	.00	0	.00	0	.00
Barbour	9	141.00	0	.00	9	141.00
Bibb	0	.00	0	.00	0	.00
Blount	0	.00	0	.00	0	.00
Bullock	0	.00	0	.00	0	.00
Butler	0	.00	0	.00	0	.00
Calhoun	5	187.00	5	187.00	0	.00
Chambers	0	.00	0	.00	0	.00
Cherokee	0	.00	0	.00	0	.00
Chilton	0	.00	0	.00	0	.00
Choctaw	0	.00	0	.00	0	.00
Clarke	0	.00	0	.00	0	.00
Clay	0	.00	0	.00	0	.00
Cleburne	0	.00	0	.00	0	.00
Coffee	0	.00	0	.00	0	.00
Colbert	0	.00	0	.00	0	.00
Conecuh	0	.00	0	.00	0	.00
Coosa	0	.00	0	.00	0	.00
Covington	0	.00	0	.00	0	.00
Crenshaw	0	.00	0	.00	0	.00
Cullman	2	44.00	2	44.00	0	.00
Dale	0	.00	0	.00	0	.00
Dallas	20	583.00	10	413.00	10	170.00
DeKalb	0	.00	0	.00	0	.00
Elmore	0	.00	0	.00	0	.00
Escambia	0	.00	0	.00	0	.00
Etowah	0	.00	0	.00	0	.00
Fayette	0	.00	0	.00	0	.00
Franklin	0	.00	0	.00	0	.00

Table 7. (Cont'd) AID TO CHILDREN RECEIVING DAY CARE

JUNE 1964

County	TOTAL		DAY CARE CENTERS		FAMILY DAY CARE HOMES	
	No. of Children	Amount of Payments	No. of Children	Amount of Payments	No. of Children	Amount of Payments
Geneva	0	.00	0	.00	0	.00
Greene	0	.00	0	.00	0	.00
Hale	0	.00	0	.00	0	.00
Henry	0	.00	0	.00	0	.00
Houston	14	406.00	14	406.00	0	.00
Jackson	0	.00	0	.00	0	.00
Jefferson	14	578.00	10	394.00	4	184.00
Lamar	0	.00	0	.00	0	.00
Lauderdale	0	.00	0	.00	0	.00
Lawrence	4	106.00	0	.00	4	106.00
Lee	0	.00	0	.00	0	.00
Limestone	0	.00	0	.00	0	.00
Lowndes	0	.00	0	.00	0	.00
Macon	0	.00	0	.00	0	.00
Madison	1	12.00	1	12.00	0	.00
Marengo	0	.00	0	.00	0	.00
Marion	0	.00	0	.00	0	.00
Marshall	0	.00	0	.00	0	.00
Mobile	63	1,713.00	55	1,543.00	11	70.00
Monroe	0	.00	0	.00	0	.00
Montgomery	24	708.00	24	708.00	0	.00
Morgan	20	699.00	18	619.00	2	80.00
Perry	0	.00	0	.00	0	.00
Pickens	0	.00	0	.00	0	.00
Pike	0	.00	0	.00	0	.00
Randolph	0	.00	0	.00	0	.00
Russell	0	.00	0	.00	0	.00
Saint Clair	0	.00	0	.00	0	.00
Shelby	10	500.00	10	500.00	0	.00
Sumter	0	.00	0	.00	0	.00
Talladega	0	.00	0	.00	0	.00
Tallapoosa	38	1,110.00	38	1,110.00	0	.00
Tuscaloosa	0	.00	0	.00	0	.00
Walker	0	.00	0	.00	0	.00
Washington	0	.00	0	.00	0	.00
Wilcox	0	.00	0	.00	0	.00
Winston	0	.00	0	.00	0	.00

1/ In instances where a child receives care in both a Day Care Center and a Family Day Care Home during the month, he is counted only once under Total Number of Children.

AID TO PERMANENTLY AND TOTALLY DISABLED

A total of 14,522 cases with an average of 1.00 persons per case received payment during June under the classification of aid to permanently and totally disabled. Payments paid to these cases totaled $670,363.30 or an average of $46.16 per case as compared with an average of $78.32 for the Nation and $58.99 for the twelve Southern States. 1/ Reference is made to the September 1963 issue of Statistics, Table 19, for the most recent release by the Social Security Administration on the number of permanently and totally disabled recipients per 1,000 population aged 18-64 years for the Nation and twelve Southern States.

Table 8. AID TO PERMANENTLY AND TOTALLY DISABLED

JUNE 1964

County	No. of Cases Receiving Payment		Amount of Payments				Average Per Case 4/
					Vendor Payments		
	Total	Nursing Home Care 2/	Total	Money Payments	Nursing Home Care	Other 3/	
TOTAL	14,522	449	$670,363.30	$605,706.50	$64,408.00	$248.80	$46.16
Autauga	103	2	4,515.00	4,230.00	285.00	.00	43.83
Baldwin	150	7	6,939.00	5,970.00	969.00	.00	46.26
Barbour	235	0	9,901.00	9,901.00	.00	.00	42.13
Bibb	130	1	5,198.00	5,062.00	136.00	.00	39.98
Blount	141	2	6,124.05	5,727.00	350.00	47.05	43.43
Bullock	85	2	3,351.00	3,193.00	152.00	6.00	39.42
Butler	136	0	5,572.00	5,572.00	.00	.00	40.97
Calhoun	319	2	13,384.00	13,084.00	300.00	.00	41.96
Chambers	183	9	8,449.00	7,074.00	1,375.00	.00	46.17
Cherokee	63	2	2,741.00	2,491.00	250.00	.00	43.51
Chilton	137	0	5,442.00	5,442.00	.00	.00	39.72
Choctaw	147	0	6,246.00	6,246.00	.00	.00	42.49
Clarke	104	2	4,001.00	3,701.00	300.00	.00	38.47
Clay	115	10	5,951.00	4,235.00	1,716.00	.00	51.75
Cleburne	80	2	3,710.00	3,410.00	300.00	.00	46.38
Coffee	226	2	9,949.00	9,649.00	300.00	.00	44.02
Colbert	192	0	7,845.00	7,845.00	.00	.00	40.86
Conecuh	147	1	6,817.00	6,692.00	125.00	.00	46.37
Coosa	72	2	3,500.00	3,205.00	295.00	.00	48.61
Covington	273	11	12,731.00	11,466.00	1,265.00	.00	46.63
Crenshaw	156	1	7,695.00	7,537.00	158.00	.00	49.33
Cullman	205	8	9,914.00	8,671.00	1,243.00	.00	48.36
Dale	165	1	7,457.00	7,338.00	119.00	.00	45.19
Dallas	331	11	14,590.00	13,455.00	1,135.00	.00	44.08
DeKalb	300	7	14,087.00	13,096.00	991.00	.00	46.96
Elmore	108	5	5,023.00	4,172.00	851.00	.00	46.51
Escambia	97	1	4,005.00	3,830.00	175.00	.00	41.29
Etowah	416	12	19,496.65	17,590.00	1,788.00	118.65	46.87
Fayette	95	2	4,322.00	4,022.00	300.00	.00	45.49
Franklin	191	7	8,895.00	7,685.00	1,210.00	.00	46.57

Table 8. (Cont'd) AID TO PERMANENTLY AND TOTALLY DISABLED

JUNE 1964

County	No. of Cases Receiving Payment		Amount of Payments				Average Per Case 4/
					Vendor Payments		
	Total	Nursing Home Care 2/	Total	Money Payments	Nursing Home Care	Other 3/	
Geneva	152	2	6,052.00	5,837.00	215.00	.00	39.82
Greene	78	2	3,192.00	3,001.00	191.00	.00	40.92
Hale	65	2	3,665.00	3,440.00	225.00	.00	43.12
Henry	112	0	5,023.00	5,023.00	.00	.00	44.85
Houston	255	8	12,007.00	10,741.00	1,266.00	.00	47.09
Jackson	244	5	10,920.00	10,145.00	775.00	.00	44.75
Jefferson	1,480	140	78,716.10	59,749.00	18,909.00	58.10	53.19
Lamar	164	3	7,256.00	6,894.00	362.00	.00	44.24
Lauderdale	248	4	11,039.00	10,426.00	613.00	.00	44.51
Lawrence	225	3	10,789.00	10,344.00	445.00	.00	47.95
Lee	155	4	6,787.00	6,091.00	696.00	.00	43.79
Limestone	245	1	11,258.00	11,083.00	175.00	.00	45.95
Lowndes	86	2	3,701.00	3,448.00	253.00	.00	43.03
Macon	56	1	2,293.00	2,118.00	175.00	.00	40.95
Madison	371	8	16,893.00	15,773.00	1,120.00	.00	45.53
Marengo	131	0	5,027.00	5,027.00	.00	.00	38.37
Marion	263	4	11,223.00	10,523.00	700.00	.00	42.67
Marshall	289	12	13,855.00	11,767.00	2,088.00	.00	47.94
Mobile	723	20	34,040.00	31,355.00	2,684.00	.00	47.08
Monroe	96	2	4,212.00	3,862.00	350.00	.00	43.88
Montgomery	365	7	16,373.50	15,349.50	1,024.00	.00	44.86
Morgan	326	13	16,722.00	14,463.00	2,259.00	.00	51.29
Perry	86	2	3,825.00	3,540.00	285.00	.00	44.48
Pickens	222	2	9,843.00	9,543.00	300.00	.00	44.34
Pike	83	1	3,085.00	2,910.00	175.00	.00	37.17
Randolph	127	5	5,635.00	5,010.00	625.00	.00	44.37
Russell	195	5	8,194.00	7,465.00	729.00	.00	42.02
Saint Clair	142	14	7,418.00	5,618.00	1,800.00	.00	52.24
Shelby	156	1	7,116.00	6,941.00	175.00	.00	45.62
Sumter	111	2	4,505.00	4,255.00	250.00	.00	40.59
Talladega	410	6	18,601.00	17,711.00	890.00	.00	45.37
Tallapoosa	330	24	17,658.00	13,866.00	3,792.00	.00	53.51
Tuscaloosa	456	3	20,702.00	20,245.00	438.00	19.00	45.40
Walker	581	14	27,290.00	25,190.00	2,100.00	.00	46.97
Washington	105	1	4,663.00	4,488.00	175.00	.00	44.41
Wilcox	94	1	3,794.00	3,669.00	125.00	.00	40.36
Winston	173	13	9,140.00	7,204.00	1,936.00	.00	52.83

1/ Data for Nation and Southern States secured from information released by the Welfare Administration for the month of April 1964.

2/ Cases receiving vendor payments for nursing home care from State and Federal funds.

3/ Payments from local funds only.

4/ Based on 14,522 APTD cases, average payment per APTD case for nursing home care from State and Federal funds for June was $4.44.

TEMPORARY AID

There were 82 families with an average of 1.00 persons per family who received temporary aid totaling $1,119.28 for June as compared with 83 families who received $1,151.81 for May. Monthly payments averaged $13.65 in June and $13.88 in May. These are families who are not otherwise eligible for aid but who are in need of emergency care.

Table 9. TEMPORARY AID 1/

JUNE 1964

County	Number of Cases	Amount of Payments	Average Per Case
TOTAL	82	$1,119.28	$13.65
Autauga	1	12.50	12.50
Baldwin	0	.00	.00
Barbour	1	12.50	12.50
Bibb	1	12.50	12.50
Blount	1	17.50	17.50
Bullock	0	.00	.00
Butler	0	.00	.00
Calhoun	0	.00	.00
Chambers	4	50.00	12.50
Cherokee	2	25.00	12.50
Chilton	2	25.00	12.50
Choctaw	2	25.00	12.50
Clarke	1	12.50	12.50
Clay	0	.00	.00
Cleburne	0	.00	.00
Coffee	0	.00	.00
Colbert	0	.00	.00
Conecuh	0	.00	.00
Coosa	0	.00	.00
Covington	0	.00	.00
Crenshaw	0	.00	.00
Cullman	0	.00	.00
Dale	1	12.50	12.50
Dallas	5	62.50	12.50
DeKalb	0	.00	.00
Elmore	0	.00	.00
Escambia	0	.00	.00
Etowah	1	12.50	12.50
Fayette	0	.00	.00
Franklin	1	12.50	12.50
Geneva	0	.00	.00
Greene	0	.00	.00
Hale	7	82.00	11.71
Henry	0	.00	.00
Houston	0	.00	.00

Table 9. (Cont'd) TEMPORARY AID 1/

JUNE 1964

County	Number of Cases	Amount of Payments	Average Per Case
Jackson	1	12.50	12.50
Jefferson	13	244.78	18.83
Lamar	1	12.50	12.50
Lauderdale	0	.00	.00
Lawrence	3	37.50	12.50
Lee	0	.00	.00
Limestone	1	12.50	12.50
Lowndes	2	25.00	12.50
Macon	0	.00	.00
Madison	0	.00	.00
Marengo	1	12.50	12.50
Marion	0	.00	.00
Marshall	0	.00	.00
Mobile	8	100.00	12.50
Monroe	2	25.00	12.50
Montgomery	2	25.00	12.50
Morgan	0	.00	.00
Perry	0	.00	.00
Pickens	2	25.00	12.50
Pike	0	.00	.00
Randolph	0	.00	.00
Russell	1	12.50	12.50
Saint Clair	0	.00	.00
Shelby	0	.00	.00
Sumter	0	.00	.00
Talledega	3	37.50	12.50
Tallapoosa	3	37.50	12.50
Tuscaloosa	4	50.00	12.50
Walker	2	37.50	18.75
Washington	0	.00	.00
Wilcox	0	.00	.00
Winston	3	37.50	12.50

1/ Amount for temporary aid may include some emergency payments from local public funds.

Table 10. APPLICATIONS WHICH WERE IN PROCESS OF INVESTIGATION BY COUNTY DEPARTMENTS

JUNE 30, 1964

County	Total	Old Age Pensions	Aid to Blind	AID TO CHILDREN: Aid to Dependent Children Fam.	AID TO CHILDREN: Aid to Dependent Children Chn.	AID TO CHILDREN: Children in Foster Care	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged 1/
TOTAL	5,557	1,778	98	1,718	5,591	0	1,809	44	110
Autauga	56	15	0	30	97	0	9	0	2
Baldwin	114	33	2	48	160	0	29	0	2
Barbour	75	26	0	19	69	0	29	0	1
Bibb	27	8	0	12	51	0	6	0	1
Blount	53	19	0	14	43	0	20	0	0
Bullock	9	5	0	0	0	0	4	0	0
Butler	19	11	1	2	9	0	5	0	0
Calhoun	200	68	3	55	188	0	72	0	2
Chambers	69	36	1	8	15	0	15	1	8
Cherokee	27	9	1	4	14	0	12	1	0
Chilton	25	14	0	3	19	0	7	0	1
Choctaw	28	12	0	9	31	0	7	0	0
Clarke	100	31	0	54	206	0	14	0	1
Clay	7	3	0	0	0	0	4	0	0
Cleburne	11	3	0	3	7	0	5	0	0
Coffee	50	15	2	10	21	0	23	0	0
Colbert	83	28	5	18	55	0	30	0	2
Conecuh	57	19	0	19	54	0	18	0	1
Coosa	16	4	1	2	5	0	8	0	1
Covington	47	21	1	8	29	0	16	0	1
Crenshaw	15	8	0	2	3	0	5	0	0
Cullman	121	46	0	31	106	0	40	0	4
Dale	25	7	1	8	26	0	7	0	2
Dallas	61	24	1	12	42	0	23	1	0
DeKalb	100	35	1	26	73	0	37	0	1
Elmore	30	18	0	2	8	0	9	0	1
Escambia	59	24	1	9	50	0	20	0	5
Etowah	120	41	1	26	67	0	46	1	5
Fayette	30	7	1	4	14	0	17	0	1
Franklin	33	8	0	8	24	0	16	1	0
Geneva	35	10	2	15	27	0	6	0	2
Greene	23	11	1	5	28	0	6	0	0
Hale	22	7	0	7	34	0	7	1	0
Henry	10	2	0	2	6	0	6	0	0
Houston	49	13	1	15	48	0	20	0	0

Table 10. (Cont'd) APPLICATIONS WHICH WERE IN PROCESS OF INVESTIGATION BY COUNTY DEPARTMENTS

JUNE 30, 1964

County	Total	Old Age Pensions	Aid to Blind	AID TO CHILDREN: Aid to Dependent Children Fam.	AID TO CHILDREN: Aid to Dependent Children Chn.	AID TO CHILDREN: Children in Foster Care	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged 1/
Jackson	78	22	0	33	111	0	22	0	1
Jefferson	990	238	19	418	1,218	0	307	8	0
Lamar	13	4	1	2	4	0	5	0	1
Lauderdale	82	40	1	23	55	0	18	0	0
Lawrence	34	8	1	8	27	0	17	0	0
Lee	47	15	0	15	36	0	17	0	0
Limestone	55	26	0	10	34	0	19	0	0
Lowndes	18	11	0	4	23	0	3	0	0
Macon	53	34	0	7	26	0	11	0	1
Madison	113	25	6	21	112	0	51	0	10
Marengo	115	55	1	34	127	0	24	0	1
Marion	75	18	2	18	53	0	34	0	3
Marshall	80	23	2	16	34	0	36	0	3
Mobile	720	171	12	273	932	0	223	18	23
Monroe	66	35	0	14	36	0	16	0	1
Montgomery	237	109	2	63	214	0	46	9	8
Morgan	166	58	3	38	108	0	57	0	0
Perry	20	7	0	7	31	0	6	0	0
Pickens	39	12	1	10	40	0	16	0	0
Pike	10	2	0	3	5	0	5	0	0
Randolph	20	8	0	7	22	0	5	0	0
Russell	68	26	0	10	44	0	29	0	3
Saint Clair	46	16	0	10	28	0	18	0	2
Shelby	75	32	1	15	41	0	24	1	3
Sumter	42	17	1	15	33	0	9	0	0
Talladega	61	14	7	21	88	0	18	0	1
Tallapoosa	54	15	0	11	31	0	28	0	0
Tuscaloosa	181	36	5	67	268	0	72	1	0
Walker	97	27	4	27	82	0	38	1	0
Washington	50	18	1	20	70	0	7	0	4
Wilcox	11	5	0	1	1	0	4	0	1
Winston	34	10	1	7	28	0	16	0	0

1/ Medical Assistance for the Aged program was initiated February 1, 1962.

Table 11. PUBLIC ASSISTANCE AND SERVICE CASES WHICH WERE UNDER CARE OF COUNTY DEPARTMENTS

JUNE 30, 1964

County	Total	Old Age Pensions	Aid to Blind	AID TO CHILDREN: Aid to Dependent Children Fam.	AID TO CHILDREN: Aid to Dependent Children Chn.	AID TO CHILDREN: Children in Foster Care	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged 1/	Service 2/
TOTAL	158,599	110,254	1,773	22,415	74,780	1,753	14,549	83	1,219	6,553
Autauga	1,219	860	15	197	658	2	102	1	4	38
Baldwin	1,852	1,315	28	245	974	9	150	0	12	93
Barbour	2,115	1,287	19	485	1,499	30	235	1	7	51
Bibb	1,080	703	11	184	614	13	130	1	5	33
Blount	1,707	1,301	11	166	453	9	143	1	20	56
Bullock	1,102	859	10	119	421	4	85	0	1	24
Butler	1,798	1,336	19	229	780	27	138	0	7	42
Calhoun	3,967	2,445	34	853	2,765	82	319	0	38	196
Chambers	2,002	1,389	24	285	1,064	6	182	4	25	87
Cherokee	825	625	5	82	232	9	66	2	10	26
Chilton	1,717	1,368	20	143	526	2	138	2	15	29
Choctaw	1,424	923	25	256	880	17	147	2	6	48
Clarke	1,635	1,211	14	195	720	13	105	1	23	73
Clay	1,190	946	12	102	283	2	118	0	3	7
Cleburne	656	487	5	66	173	5	80	0	1	12
Coffee	1,932	1,317	38	264	784	7	224	0	10	72
Colbert	2,234	1,489	24	390	1,263	13	197	0	12	109
Conecuh	1,570	1,210	15	152	516	14	146	0	7	26
Coosa	744	521	7	116	305	8	71	0	2	19
Covington	2,643	1,945	40	276	763	21	271	0	24	66
Crenshaw	1,487	1,069	9	213	684	19	153	0	8	16
Cullman	2,793	2,225	18	229	575	23	205	0	20	73
Dale	1,531	995	29	213	637	11	167	1	9	106
Dallas	4,008	2,541	36	650	2,361	51	330	5	22	373
DeKalb	2,853	2,030	30	355	930	23	301	0	9	105
Elmore	1,551	1,154	17	97	335	30	108	0	31	114
Escambia	1,622	1,301	16	109	345	27	97	0	19	53
Etowah	4,147	2,859	37	532	1,925	31	412	2	45	229
Fayette	1,233	987	17	110	311	0	96	0	6	17
Franklin	1,811	1,300	20	189	487	15	195	1	4	87
Geneva	1,545	1,155	37	158	691	4	153	0	15	23
Greene	1,150	878	9	166	572	1	78	0	8	10
Hale	1,431	1,075	16	185	680	4	85	6	9	51
Henry	1,066	763	11	161	519	1	110	0	4	19
Houston	2,730	1,967	45	354	1,166	9	256	0	22	77

Table 11. (Cont'd) PUBLIC ASSISTANCE AND SERVICE CASES WHICH WERE UNDER CARE OF COUNTY DEPARTMENTS

JUNE 30, 1964

County	Total	Old Age Pensions	Aid to Blind	AID TO CHILDREN: Aid to Dependent Children Fam.	AID TO CHILDREN: Aid to Dependent Children Chn.	AID TO CHILDREN: Children in Foster Care	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged 1/	Service
Jackson	2,315	1,565	28	327	940	34	241	1	13	10
Jefferson	18,876	13,025	249	2,701	9,158	340	1,482	13	106	96
Lamar	1,338	965	14	173	465	1	163	1	5	1
Lauderdale	2,810	2,029	31	329	1,288	45	256	0	18	10
Lawrence	2,089	1,312	13	427	1,362	25	225	3	8	7
Lee	1,880	1,411	16	183	626	11	153	0	14	9
Limestone	2,086	1,402	34	333	1,075	6	248	1	15	4
Lowndes	1,147	808	8	185	741	18	87	2	2	3
Macon	1,214	953	11	78	307	0	59	0	28	8
Madison	3,963	2,505	36	720	2,412	38	382	0	35	24
Marengo	1,858	1,369	10	257	974	9	130	1	21	6
Marion	1,994	1,462	22	200	542	10	263	0	9	2
Marshall	2,767	1,923	24	297	800	53	292	0	17	16
Mobile	8,598	5,026	99	1,938	7,206	180	731	8	122	59
Monroe	1,301	1,058	9	112	447	1	96	2	6	1
Montgomery	4,737	3,559	74	376	1,277	40	368	2	99	21
Morgan	3,268	2,157	22	464	1,607	101	322	0	8	19
Perry	1,317	1,030	14	158	595	3	85	0	16	1
Pickens	2,070	1,335	16	448	1,514	5	222	2	7	3
Pike	1,397	1,157	9	104	367	8	84	0	8	2
Randolph	1,447	1,136	17	57	203	15	126	0	7	8
Russell	2,015	1,503	20	192	629	14	194	1	43	4
Saint Clair	1,371	1,012	16	120	321	23	142	0	6	5
Shelby	1,708	1,213	18	221	692	13	157	0	12	7
Sumter	1,599	1,194	21	220	774	10	110	0	5	3
Talladega	3,710	2,387	71	672	2,289	36	406	3	30	10
Tallapoosa	2,521	1,703	23	341	985	20	328	3	11	9
Tuscaloosa	5,059	3,064	57	1,151	3,678	87	454	4	39	20
Walker	4,284	2,550	32	756	2,300	42	575	2	21	20
Washington	986	685	6	107	512	14	106	0	16	5
Wilcox	1,257	1,011	16	129	529	0	95	0	7	9
Winston	1,137	809	14	113	314	9	174	4	1	1

1/ Medical Assistance for the Aged program was initiated February 1, 1962.

2/ In these 6,553 cases there were 7,076 children.

WARDS UNDER CARE OF STATE DEPARTMENT OF PENSIONS AND SECURITY

Through the Division of Foster Home Care of the Bureau of Child Welfare, the State Department was at the end of June acting as legal custodian to 732 children who were under its direct care. These children who were placed in either free or boarding homes have been received from counties on a temporary or permanent basis as the situation warranted. Homes providing foster care for children are required to meet standards prescribed by the State Board of Pensions and Security.

Table 12. NUMBER OF WARDS UNDER CARE OF STATE DEPARTMENT OF PENSIONS AND SECURITY

JUNE 1964

Number of children under care June 1, 1964	734
Number of children received during month	23
Total number of children receiving care during month 1/	757
Number of children discharged during month	25
Number under care June 30, 1964	732

1/ There were during the month 357 of these children who were under financial care.

WHEREABOUTS OF WARDS AT BEGINNING AND END OF MONTH

	June 1, 1964	June 30, 1964
Number of wards under care	734	732
A. Children receiving foster home care	719	717
1. Number in foster homes under supervision	700	696
2. Number in institutions	19	21
B. Children in their own homes or homes of relatives	15	15
1. Number in their own homes under supervision	5	5
2. Number in homes of relatives under supervision	10	10

ADOPTIONS

The State Department of Pensions and Security, or its duly authorized agents is charged with responsibility to verify the allegations of all adoption petitions filed in the courts having jurisdiction, to make thorough investigation of proposed adoptions, to report the findings to the court and to perform supervisory service to the adoptive home prior to final action by the court. The State Department of Pensions and Security has authorized the county departments of pensions and security and other licensed agencies to perform these services. Through an agreement with the courts having jurisdiction, reports are due within 60 days unless legal action is temporarily postponed. The figures in Table 13 show that 684 children were in adoptive homes under supervision on June 30, 1964.

Table 13. CHILDREN FOR WHOM ADOPTIVE PETITIONS WERE REFERRED BY PROBATE COURTS

	Number of Children for Whom Petitions Were Referred By Courts
A. PETITIONS PENDING FIRST REPORT TO COURT	
1. Number pending first report to court at beginning of month	853
2. Number referred during month	220
3. Total number pending first report to court during month	1,073
4. Number for whom first report was made to court during month	183
a. Number reported as favorable	167
b. Number reported as unfavorable	16
5. Number pending first report to court at end of month	890
B. CASES UNDER SUPERVISION PENDING NOTICE OF FINAL ACTION OF COURT	
1. Number under supervision at beginning of month	672
2. Number added during month	100
3. Total number under supervision during month	772
4. Total number closed during month	88
a. Number closed by final action of court	85
b. Number closed for other reasons	3
5. Number under supervision at end of month	684

-- CHILDREN UNDER SUPERVISION AWAY FROM THEIR OWN OR RELATED HOMES --

Table 14

CHILDREN UNDER CARE OF PUBLIC AND PRIVATE CHILD-CARING INSTITUTIONS, CHILD-PLACING AGENCIES AND DAY CARE FACILITIES

The State Department of Pensions and Security or its duly authorized agents, is by law charged with the responsibility of licensing private child-caring institutions, agencies and day care facilities. Seventeen child-caring institutions, seven child-placing agencies, six detention homes, ninety-two day care centers, and forty-nine family day care homes are at the present time licensed by the State or county departments. The department serves in an advisory capacity to all those agencies in assisting them to meet and maintain prescribed standards. There are, in addition, four State institutions which are not required to be licensed and five maternity hospitals which are licensed by the State Health Department. These, however, report monthly to the State Department of Pensions and Security as to their admissions and discharges.

CHILD-CARING INSTITUTIONS AND CHILD-PLACING AGENCIES

Total number of children under care June 30, 1964	4,039
1. Number under care of child-caring institutions	3,837
a. Public	2,899
b. Private	938
2. Number under care of private child-placing agencies	202

DAY CARE FACILITIES

Total number of children under care June 30, 1964	2,502
1. In private day care centers	2,367
2. In private family day care homes	135

Table 15

CHILDREN AWAY FROM THEIR OWN OR RELATED HOMES UNDER CARE OF STATE AND COUNTY DEPARTMENTS OF PENSIONS AND SECURITY

JUNE 30, 1964

Children Under Supervision In:	Number of Children
TOTAL	3,009
Boarding homes	2,115
Adoptive homes (Unrelated-Petitions having been filed)	610
Free unrelated homes	255
Work or wage homes	3
Elsewhere	26

JUVENILE COURT

Alabama's General Juvenile Court law provides that the county directors of pensions and security may be designated by the juvenile court judge as probation officers. Six counties have full time courts which employ their own probation staffs--Calhoun, Jefferson, Madison, Mobile, Montgomery, and Tuscaloosa. Though they do not have full time courts, Lauderdale, Lee, and Morgan Counties each has a probation officer. In each of the other 58 counties the county director of pensions and security has been designated as the juvenile court probation officer. The juvenile courts submit to the State Department of Pensions and Security through the county units monthly reports of the cases handled by the courts. Table 16 is a report of the formal cases handled by the courts during the month of June 1964.

Table 16. JUVENILE COURT CASES

JUNE 1964

CHILDREN FOR WHOM PETITIONS WERE FILED	NUMBER OF CHILDREN			
	Total	Delinquency		Dependency and Neglect
		Boys	Girls	
Number for whom petitions were pending disposition at beginning of month	1,616	710	349	557
Number for whom petitions were filed during month	693	334	82	277
Total during month	2,309	1,044	431	834
Number for whom petitions were disposed of during month	544	268	69	207
Dismissed	120	63	23	34
Continued generally (held open without further action)	28	16	6	6
Committed to State Department of Pensions and Security	22	xx	xx	22
Committed to institution	55	33	12	10
Public	51	31	12	8
Alabama Boys' Industrial School	11	11	xx	0
Alabama Industrial School for Negro Children	18	15	3	0
State Training School for Girls	8	xx	8	0
Detention Homes	5	5	0	0
Partlow	8	0	0	8
Bryce	1	0	1	0
Private	4	2	0	2
Placed on probation	157	137	20	xx
Supervised directly by court	132	114	18	xx
Supervised by County PSD	25	23	2	xx
Other disposition	162	19	8	135
Number for whom petitions were pending end of month	1,765	776	362	627

PLAINTIFFS' EXHIBIT 14.

Statistics

January, 1967

State of Alabama

Department of Pensions and Security
Montgomery

Publication Dates of Statistics.

The publication *STATISTICS* is released to the mailing list for only the last month of each quarter—i. e., March, June, September, December. However, the data as contained in this publication are available on a monthly basis in the offices of the State and County Departments of Pensions and Security.

RUBEN K. KING,
Commissioner.

Statistics

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During the month of January, a total of 149,383 cases received through the Department of Pensions and Security payments totaling $9,778,734.85. Of this amount $7,846,408.65 was paid to the aged, $131,973.70 for the blind, $905,862.14 to families with dependent children, $80,890.38 for aid to children in foster care — county, $15,174.42 for aid to children in foster care — State, $17,590.00 for aid to children receiving day care, $777,513.37 to the permanently and totally disabled, $1,107.43 to families in need of temporary care, and $2,214.76 for medical assistance for the aged.

Table 1. NUMBER OF CASES RECEIVING PAYMENT AND AMOUNT OF PAYMENTS TO THESE CASES 1/

JANUARY 1967

County	Number of Cases Receiving Payment	Amount of Payments	Average Per Case
GRAND TOTAL 2/	149,383	$9,778,734.85	$65.46
COUNTY TOTAL	149,135	$9,763,560.43	$65.47
Autauga	1,116	73,660.50	66.00
Baldwin	1,652	112,121.70	67.87
Barbour	1,905	119,484.00	62.72
Bibb	966	58,628.11	60.69
Blount	1,574	99,743.95	63.37
Bullock	1,025	64,522.50	62.95
Butler	1,596	101,476.00	63.58
Calhoun	3,712	241,750.78	65.13
Chambers	1,780	117,897.92	66.23
Cherokee	756	49,342.17	65.27
Chilton	1,604	101,579.00	63.33
Choctaw	1,393	87,192.50	62.59
Clarke	1,302	78,901.00	60.60
Clay	1,133	80,168.00	70.76
Cleburne	645	41,454.00	64.27
Coffee	1,811	123,295.50	68.08
Colbert	2,114	139,437.00	65.96
Conecuh	1,467	97,769.00	66.65
Coosa	682	44,724.50	65.58
Covington	2,496	166,513.30	66.71
Crenshaw	1,436	100,939.10	70.29
Cullman	2,686	193,900.73	72.19
Dale	1,381	85,183.44	61.68
Dallas	3,294	210,922.00	64.03
DeKalb	2,751	175,564.26	63.82
Elmore	1,397	99,510.73	71.23
Escambia	1,479	92,766.00	62.72
Etowah	3,883	255,050.63	65.68
Fayette	1,142	77,901.25	68.21
Franklin	1,712	120,199.03	70.21

Table 1. (Cont'd) NUMBER OF CASES RECEIVING PAYMENT AND AMOUNT OF PAYMENTS TO THESE CASES 1/

JANUARY 1967

County	Number of Cases Receiving Payment	Amount of Payments	Average Per Case
Geneva	1,495	93,876.78	62.79
Greene	1,012	63,571.50	62.82
Hale	1,352	86,434.00	63.93
Henry	1,024	63,672.50	62.18
Houston	2,659	179,762.22	67.61
Jackson	2,080	131,718.37	63.33
Jefferson	18,038	1,199,866.43	66.52
Lamar	1,285	88,590.15	68.94
Lauderdale	2,693	190,107.00	70.59
Lawrence	1,867	119,965.50	64.26
Lee	1,855	125,816.10	67.83
Limestone	2,039	138,070.54	67.71
Lowndes	971	60,589.00	62.40
Macon	1,285	75,954.21	59.11
Madison	3,618	228,790.36	63.24
Marengo	1,675	104,265.00	62.25
Marion	1,940	138,047.48	71.16
Marshall	2,655	172,635.90	65.02
Mobile	8,548	551,581.42	64.53
Monroe	1,331	83,848.00	63.00
Montgomery	4,694	317,398.13	67.62
Morgan	2,993	201,329.97	67.27
Perry	1,372	85,857.00	62.58
Pickens	2,038	132,181.48	64.86
Pike	1,408	84,750.98	60.19
Randolph	1,335	80,065.70	59.97
Russell	1,898	124,858.29	65.78
Saint Clair	1,285	77,825.73	60.56
Shelby	1,593	100,806.66	63.28
Sumter	1,470	92,826.00	63.15
Talladega	3,478	225,478.00	64.83
Tallapoosa	2,395	176,525.08	73.71
Tuscaloosa	4,787	303,914.25	63.49
Walker	3,898	251,494.34	64.52
Washington	905	54,002.66	59.67
Wilcox	1,161	70,494.00	60.72
Winston	1,113	74,990.00	67.38

1/ Table includes data for vendor payments for medical care.

2/ Includes 248 juvenile wards who received $15,174.12 through the State Department.

OLD AGE PENSIONS

During the month of January, there were 112,639 cases who received a total of $7,846,408.65 in old age payments. The average monthly payment per case for the State as a whole was $69.66. Reference is made to the September 1966 issue of Statistics, Table 17, for the most recent release by the Welfare Administration on the number of old age recipients per 1,000 aged population for the Nation and twelve Southern States.

Table 2. OLD AGE PENSIONS 1/

JANUARY 1967

County	No. of Cases Receiving Payment	Amount of Payments				Average Per Case 2/
		Total	Money Payments	Vendor Payments		
				Medical Care	Other	
TOTAL	112,639	$7,846,408.65	$6,825,127.00	$1,020,722.56	$559.09	$69.66
Autauga	848	59,480.00	51,051.00	8,429.00	.00	70.14
Baldwin	1,294	92,865.70	73,653.00	19,212.70	.00	71.77
Barbour	1,319	91,126.00	84,680.00	6,446.00	.00	69.09
Bibb	703	45,996.00	43,166.00	2,830.00	.00	65.43
Blount	1,311	86,115.00	80,270.00	5,845.00	.00	65.69
Bullock	848	55,707.00	53,321.00	2,373.00	13.00	65.69
Butler	1,297	87,297.00	81,294.00	6,003.00	.00	67.31
Calhoun	2,503	177,590.00	143,692.00	33,898.00	.00	70.95
Chambers	1,426	100,469.00	81,113.00	19,356.00	.00	70.46
Cherokee	606	42,139.00	35,726.00	6,413.00	.00	69.54
Chilton	1,330	89,426.00	80,837.00	8,589.00	.00	67.24
Choctaw	955	64,816.00	59,708.00	5,108.00	.00	67.87
Clarke	1,087	69,305.00	63,910.00	5,395.00	.00	63.76
Clay	933	69,654.00	56,650.00	13,004.00	.00	74.66
Cleburne	514	34,417.00	30,852.00	3,565.00	.00	66.96
Coffee	1,387	100,438.00	87,767.00	12,671.00	.00	72.41
Colbert	1,511	108,353.00	92,679.00	15,674.00	.00	71.71
Conecuh	1,159	81,981.00	76,278.00	5,703.00	.00	70.73
Coosa	521	36,714.00	31,305.00	5,409.00	.00	70.47
Covington	1,985	139,114.30	121,204.00	17,910.30	.00	70.08
Crenshaw	1,089	82,024.60	70,546.00	11,475.00	3.60	75.32
Cullman	2,251	170,075.00	133,898.00	36,177.00	.00	75.56
Dale	1,036	68,321.00	66,336.00	1,985.00	.00	65.95
Dallas	2,562	174,935.00	159,895.00	15,040.00	.00	68.28
DeKalb	2,115	142,346.00	130,007.00	12,339.00	.00	67.30
Elmore	1,170	87,186.43	67,720.00	19,466.43	.00	74.52
Escambia	1,263	82,936.00	74,231.00	8,705.00	.00	65.67
Etowah	2,921	203,334.00	170,249.00	33,085.00	.00	69.61
Fayette	944	67,678.25	59,292.00	8,386.25	.00	71.69
Franklin	1,327	100,375.00	81,782.00	18,593.00	.00	75.64

Table 2. (Cont'd) OLD AGE PENSIONS 1/

JANUARY 1967

County	No. of Cases Receiving Payment	Amount of Payments			
		Total	Money Payments	Vendor Payments Medical Care	Other
Geneva	1,178	78,404.00	72,817.00	5,587.00	.00
Greene	882	57,385.00	53,357.00	4,028.00	.00
Hale	1,097	72,491.00	68,661.00	3,830.00	.00
Henry	743	49,716.50	47,938.00	1,778.50	.00
Houston	2,021	144,845.30	126,274.00	18,571.30	.00
Jackson	1,531	104,627.00	97,076.00	7,551.00	.00
Jefferson	13,660	958,718.75	794,045.00	164,673.75	.00
Lamar	994	73,409.15	63,763.00	9,646.15	.00
Lauderdale	2,096	158,724.00	125,986.00	32,738.00	.00
Lawrence	1,278	89,188.00	81,218.00	7,970.00	.00
Lee	1,419	103,289.15	83,975.00	19,314.15	.00
Limestone	1,499	109,805.40	94,213.00	15,592.40	.00
Lowndes	746	48,757.00	48,256.00	501.00	.00
Macon	1,036	62,624.75	61,611.00	1,013.75	.00
Madison	2,597	176,297.00	163,340.00	12,957.00	.00
Marengo	1,359	88,453.00	83,696.00	4,757.00	.00
Marion	1,512	116,393.00	89,303.00	27,090.00	.00
Marshall	2,045	141,622.00	126,474.00	15,148.00	.00
Mobile	5,508	376,921.09	325,777.00	51,033.60	110.49
Monroe	1,140	73,989.00	67,747.00	6,242.00	.00
Montgomery	3,764	269,400.00	231,847.00	37,478.00	75.00
Morgan	2,134	155,925.75	129,849.00	26,076.75	.00
Perry	1,089	71,224.00	65,556.00	5,668.00	.00
Pickens	1,393	97,758.00	88,865.00	8,893.00	.00
Pike	1,177	73,434.00	70,691.00	2,743.00	.00
Randolph	1,133	70,719.00	68,938.00	1,425.00	356.00
Russell	1,535	107,249.40	95,367.00	11,882.40	.00
Saint Clair	1,017	65,152.73	57,973.00	7,179.73	.00
Shelby	1,213	81,670.00	71,261.00	10,409.00	.00
Sumter	1,200	79,199.00	75,258.00	3,941.00	.00
Talladega	2,392	167,597.00	140,698.00	26,899.00	.00
Tallapoosa	1,708	139,168.00	102,372.00	36,796.00	.00
Tuscaloosa	3,193	220,622.40	194,703.00	25,919.40	.00
Walker	2,696	186,696.00	164,664.00	22,032.00	.00
Washington	694	43,665.00	43,379.00	285.00	1.00
Wilcox	932	59,048.00	57,801.00	1,247.00	.00
Winston	813	60,006.00	47,266.00	12,740.00	.00

1/ Table includes data for vendor payments for medical care.

2/ Based on 112,639 OAP recipients, average vendor payment per recipient f
medical care for the month of January was $9.06 including some payments
from local public funds.

Table 2a. VENDOR PAYMENTS FOR MEDICAL CARE FOR RECIPIENTS OF OLD AGE PENSIONS

JANUARY 1967

County	Total Payments	Vendor Payments for Medical Care for Old Age Pension Recipients: Nursing Home Care Number of Cases	Nursing Home Care Amount of Payments	Hospitalization Number of Cases	Hospitalization Amount of Payments	Physicians' Services Number of Cases	Physicians' Services Amount of Payments	Other 1/
Total	$1,020,722.56	5,327	$941,787.00	1,838	$76,082.06	537	$2,775.00	$78.50
Autauga	8,429.00	43	7,854.00	10	400.00	35	175.00	.00
Baldwin	19,212.70	99	17,217.00	39	1,995.70	0	.00	.00
Barbour	6,446.00	33	5,801.00	16	640.00	1	5.00	.00
Bibb	2,830.00	10	2,200.00	12	605.00	5	25.00	.00
Blount	5,845.00	26	4,805.00	26	1,040.00	0	.00	.00
Bullock	2,373.00	14	2,073.00	6	300.00	0	.00	.00
Butler	6,003.00	27	5,053.00	24	945.00	1	5.00	.00
Calhoun	33,898.00	173	31,838.00	51	2,040.00	4	20.00	.00
Chambers	19,356.00	107	18,756.00	15	600.00	0	.00	.00
Cherokee	6,413.00	29	5,564.00	24	844.00	1	5.00	.00
Chilton	8,589.00	46	7,551.00	27	1,033.00	1	5.00	.00
Choctaw	5,108.00	28	5,028.00	2	80.00	0	.00	.00
Clarke	5,395.00	28	4,626.00	19	769.00	0	.00	.00
Clay	13,004.00	65	12,343.00	14	516.00	29	145.00	.00
Cleburne	3,565.00	18	3,190.00	8	320.00	11	55.00	.00
Coffee	12,671.00	61	11,106.00	39	1,555.00	2	10.00	.00
Colbert	15,674.00	84	14,620.00	27	1,049.00	1	5.00	.00
Conecuh	5,703.00	29	5,463.00	6	240.00	0	.00	.00
Coosa	5,409.00	27	5,049.00	9	330.00	6	30.00	.00
Covington	17,910.30	85	15,263.00	60	2,542.30	21	105.00	.00
Crenshaw	11,475.00	57	10,445.00	22	880.00	30	150.00	.00
Cullman	36,177.00	194	34,477.00	42	1,620.00	16	80.00	.00
Dale	1,985.00	11	1,905.00	2	80.00	0	.00	.00
Dallas	15,040.00	82	14,219.00	21	816.00	1	5.00	.00
DeKalb	12,339.00	56	10,769.00	39	1,560.00	2	10.00	.00
Elmore	19,466.43	100	18,690.00	20	771.43	1	5.00	.00
Escambia	8,705.00	47	7,575.00	28	1,120.00	2	10.00	.00
Etowah	33,085.00	173	30,718.00	53	2,317.00	10	50.00	.00
Fayette	8,386.25	40	7,530.00	22	846.25	2	10.00	.00
Franklin	18,593.00	97	17,514.00	27	1,079.00	0	.00	.00
Geneva	5,587.00	23	4,527.00	25	1,010.00	10	50.00	.00
Greene	4,028.00	20	3,628.00	10	400.00	0	.00	.00
Hale	3,830.00	22	3,195.00	14	635.00	0	.00	.00

Table 2a. (Cont'd) VENDOR PAYMENTS FOR MEDICAL CARE FOR RECIPIENTS OF OLD AGE PENSIONS

JANUARY 1967

County	Vendor Payments for Medical Care for Old Age Pension Recipients							
	Total Payments	Nursing Home Care		Hospitalization		Physicians' Services		Other 1/
		Number of Cases	Amount of Payments	Number of Cases	Amount of Payments	Number of Cases	Amount of Payments	
Henry	1,778.50	5	1,000.00	20	758.50	4	20.00	.00
Houston	18,571.30	87	16,354.00	30	1,957.30	52	260.00	.00
Jackson	7,551.00	35	6,591.00	24	960.00	0	.00	.00
Jefferson	164,673.75	930	157,867.00	140	5,847.00	159	885.00	74.75
Lamar	9,646.15	47	8,670.00	24	906.15	14	70.00	.00
Lauderdale	32,738.00	173	31,583.00	27	1,055.00	20	100.00	.00
Lawrence	7,970.00	41	7,085.00	22	880.00	1	5.00	.00
Lee	19,314.15	104	18,542.00	19	757.15	3	15.00	.00
Limestone	15,592.40	77	14,552.00	27	1,040.40	0	.00	.00
Lowndes	501.00	2	341.00	4	160.00	0	.00	.00
Macon	1,013.75	2	207.00	20	806.75	0	.00	.00
Madison	12,957.00	69	11,602.00	33	1,320.00	7	35.00	.00
Marengo	4,757.00	25	4,377.00	10	370.00	2	10.00	.00
Marion	27,090.00	135	25,670.00	35	1,400.00	4	20.00	.00
Marshall	15,148.00	71	13,223.00	48	1,920.00	1	5.00	.00
Mobile	51,033.60	294	48,353.00	65	2,680.60	0	.00	.00
Monroe	6,242.00	31	5,846.00	9	396.00	0	.00	.00
Montgomery	37,478.00	206	35,238.00	48	2,055.00	37	185.00	.00
Morgan	26,076.75	132	24,073.00	50	2,000.00	0	.00	3.75
Perry	5,668.00	29	5,308.00	9	360.00	0	.00	.00
Pickens	8,893.00	43	7,073.00	45	1,820.00	0	.00	.00
Pike	2,743.00	15	2,648.00	2	80.00	3	15.00	.00
Randolph	1,425.00	0	.00	35	1,400.00	5	25.00	.00
Russell	11,882.40	63	10,742.00	29	1,140.40	0	.00	.00
Saint Clair	7,179.73	35	6,389.00	15	775.73	3	15.00	.00
Shelby	10,409.00	50	9,479.00	26	920.00	2	10.00	.00
Sumter	3,941.00	21	3,256.00	17	680.00	1	5.00	.00
Talladega	26,899.00	150	25,044.00	50	1,830.00	5	25.00	.00
Tallapoosa	36,796.00	196	35,281.00	38	1,500.00	3	15.00	.00
Tuscaloosa	25,919.40	125	22,097.00	68	3,807.40	3	15.00	.00
Walker	22,032.00	109	19,602.00	62	2,400.00	6	30.00	.00
Washington	285.00	1	125.00	4	160.00	0	.00	.00
Wilcox	1,247.00	5	767.00	12	480.00	0	.00	.00
Winston	12,740.00	65	12,210.00	12	480.00	10	50.00	.00

1/ Vendor payments from local public funds.

MEDICAL ASSISTANCE FOR THE AGED

During the month of January, there were 43 cases who received medical assistance for the aged with the amount of payments totaling $2,214.76. These payments are to persons 65 or older, not receiving old age assistance, and who meet certain other eligibility requirements.

Table 3. MEDICAL ASSISTANCE FOR THE AGED

JANUARY 1967

County	TOTAL		HOSPITALIZATION		PHYSICIANS' SERVICES		
	No. of Cases	Amount of Payments	No. of Cases	Amount of Payments	No. of Cases	Amount of Payments	Average Per Case
TOTAL	43	$2,214.76	43	$2,214.76	0	$ .00	$51.51
Autauga	0	.00	0	.00	0	.00	.00
Baldwin	0	.00	0	.00	0	.00	.00
Barbour	0	.00	0	.00	0	.00	.00
Bibb	1	40.00	1	40.00	0	.00	40.00
Blount	2	577.60	2	577.60	0	.00	288.80
Bullock	0	.00	0	.00	0	.00	.00
Butler	0	.00	0	.00	0	.00	.00
Calhoun	6	240.00	6	240.00	0	.00	40.00
Chambers	0	.00	0	.00	0	.00	.00
Cherokee	0	.00	0	.00	0	.00	.00
Chilton	0	.00	0	.00	0	.00	.00
Choctaw	0	.00	0	.00	0	.00	.00
Clarke	0	.00	0	.00	0	.00	.00
Clay	0	.00	0	.00	0	.00	.00
Cleburne	0	.00	0	.00	0	.00	.00
Coffee	1	40.00	1	40.00	0	.00	40.00
Colbert	1	40.00	1	40.00	0	.00	40.00
Conecuh	0	.00	0	.00	0	.00	.00
Coosa	0	.00	0	.00	0	.00	.00
Covington	0	.00	0	.00	0	.00	.00
Crenshaw	0	.00	0	.00	0	.00	.00
Cullman	0	.00	0	.00	0	.00	.00
Dale	1	40.00	1	40.00	0	.00	40.00
Dallas	0	.00	0	.00	0	.00	.00
DeKalb	0	.00	0	.00	0	.00	.00
Elmore	0	.00	0	.00	0	.00	.00
Escambia	1	40.00	1	40.00	0	.00	40.00
Etowah	1	40.00	1	40.00	0	.00	40.00
Fayette	0	.00	0	.00	0	.00	.00
Franklin	0	.00	0	.00	0	.00	.00

Table 3. (Cont'd) MEDICAL ASSISTANCE FOR THE AGED

JANUARY 1957

County	TOTAL		HOSPITALIZATION		PHYSICIANS' SERVICES		Average Per Case
	No. of Cases	Amount of Payments	No. of Cases	Amount of Payments	No. of Cases	Amount of Payments	
Geneva	0	.00	0	.00	0	.00	.00
Greene	0	.00	0	.00	0	.00	.00
Hale	0	.00	0	.00	0	.00	.00
Henry	0	.00	0	.00	0	.00	.00
Houston	1	40.00	1	40.00	0	.00	40.00
Jackson	0	.00	0	.00	0	.00	.00
Jefferson	8	246.40	8	246.40	0	.00	30.80
Lamar	0	.00	0	.00	0	.00	.00
Lauderdale	2	80.00	2	80.00	0	.00	40.00
Lawrence	0	.00	0	.00	0	.00	.00
Lee	1	40.00	1	40.00	0	.00	40.00
Limestone	1	40.00	1	40.00	0	.00	40.00
Lowndes	0	.00	0	.00	0	.00	.00
Macon	1	112.96	1	112.96	0	.00	112.96
Madison	1	40.00	1	40.00	0	.00	40.00
Marengo	1	40.00	1	40.00	0	.00	40.00
Marion	2	80.00	2	80.00	0	.00	40.00
Marshall	1	30.80	1	30.80	0	.00	30.80
Mobile	1	40.00	1	40.00	0	.00	40.00
Monroe	0	.00	0	.00	0	.00	.00
Montgomery	1	65.00	1	65.00	0	.00	65.00
Morgan	0	.00	0	.00	0	.00	.00
Perry	0	.00	0	.00	0	.00	.00
Pickens	0	.00	0	.00	0	.00	.00
Pike	0	.00	0	.00	0	.00	.00
Randolph	0	.00	0	.00	0	.00	.00
Russell	3	102.00	3	102.00	0	.00	34.00
Saint Clair	0	.00	0	.00	0	.00	.00
Shelby	0	.00	0	.00	0	.00	.00
Sumter	0	.00	0	.00	0	.00	.00
Talladega	2	80.00	2	80.00	0	.00	40.00
Tallapoosa	2	80.00	2	80.00	0	.00	40.00
Tuscaloosa	1	40.00	1	40.00	0	.00	40.00
Walker	0	.00	0	.00	0	.00	.00
Washington	0	.00	0	.00	0	.00	.00
Wilcox	0	.00	0	.00	0	.00	.00
Winston	0	.00	0	.00	0	.00	.00

AID TO BLIND

There were during January, 1,826 aid to blind cases with an average of 1.00 persons per case who received payments totaling $131,973.70 or an average of $72.27 per case. Reference is made to the September 1966 issue of Statistics, Table 19, for the most recent release by the Welfare Administration on the number of aid to blind recipients per 100,000 population aged 18 and over for the Nation and twelve Southern States.

Table 4. AID TO BLIND 1/

JANUARY 1967

County	No. of Cases Receiving Payment		Amount of Payments				Average Per Case 4/
					Vendor Payments		
	Total	Nursing Home Care 2/	Total	Money Payments	Nursing Home Care	Other 3/	
TOTAL	1,826	22	$131,973.70	$127,967.00	$3,962.00	$44.70	$72.27
Autauga	16	0	1,233.00	1,233.00	.00	.00	77.06
Baldwin	27	0	1,873.00	1,873.00	.00	.00	69.37
Barbour	17	0	1,206.00	1,206.00	.00	.00	70.94
Bibb	7	0	435.00	435.00	.00	.00	62.14
Blount	11	0	684.00	684.00	.00	.00	62.18
Bullock	10	0	684.00	684.00	.00	.00	68.40
Butler	13	0	844.00	844.00	.00	.00	64.92
Calhoun	36	0	2,373.00	2,373.00	.00	.00	65.92
Chambers	25	0	1,681.00	1,681.00	.00	.00	67.24
Cherokee	5	0	283.00	283.00	.00	.00	56.60
Chilton	20	0	1,348.00	1,348.00	.00	.00	67.40
Choctaw	26	0	1,889.00	1,889.00	.00	.00	72.65
Clarke	10	0	616.00	616.00	.00	.00	61.60
Clay	13	0	891.00	891.00	.00	.00	68.54
Cleburne	4	0	283.00	283.00	.00	.00	70.75
Coffee	35	0	2,738.00	2,738.00	.00	.00	78.23
Colbert	26	0	1,815.00	1,815.00	.00	.00	69.81
Conecuh	14	0	1,052.00	1,052.00	.00	.00	75.14
Coosa	7	1	494.00	461.00	33.00	.00	70.57
Covington	42	1	3,440.00	3,100.00	340.00	.00	81.90
Crenshaw	16	0	1,183.00	1,183.00	.00	.00	73.94
Cullman	17	0	1,199.00	1,199.00	.00	.00	70.53
Dale	28	0	1,905.00	1,905.00	.00	.00	68.04
Dallas	33	0	2,172.00	2,172.00	.00	.00	65.82
DeKalb	22	1	1,675.00	1,475.00	200.00	.00	76.14
Elmore	20	1	1,535.00	1,335.00	200.00	.00	76.75
Escambia	17	0	1,117.00	1,117.00	.00	.00	65.71
Etowah	40	0	2,794.70	2,750.00	.00	44.70	69.87
Fayette	25	0	1,903.00	1,903.00	.00	.00	76.12
Franklin	14	1	1,078.00	878.00	200.00	.00	77.00

Table 4. (Cont'd) AID TO BLIND 1/

JANUARY 1967

County	No. of Cases Receiving Payment		Amount of Payments				
	Total	Nursing Home Care 2/	Total	Money Payments	Vendor Payments		Average Per Case 4/
					Nursing Home Care	Other 3/	
Geneva	30	0	2,057.00	2,057.00	.00	.00	68.57
Greene	8	0	486.00	486.00	.00	.00	60.75
Hale	12	0	882.00	882.00	.00	.00	73.50
Henry	14	0	1,053.00	1,053.00	.00	.00	75.21
Houston	39	1	3,090.00	2,890.00	200.00	.00	79.23
Jackson	23	1	1,921.00	1,721.00	200.00	.00	83.52
Jefferson	252	5	19,005.00	18,055.00	950.00	.00	75.42
Lamar	21	0	1,663.00	1,663.00	.00	.00	79.19
Lauderdale	33	1	2,211.00	2,104.00	107.00	.00	71.32
Lawrence	15	0	1,039.00	1,039.00	.00	.00	69.27
Lee	25	0	1,842.00	1,842.00	.00	.00	73.68
Limestone	33	0	2,374.00	2,374.00	.00	.00	71.94
Lowndes	5	0	330.00	330.00	.00	.00	66.00
Macon	8	0	538.00	538.00	.00	.00	67.25
Madison	38	0	2,497.00	2,497.00	.00	.00	65.71
Marengo	13	0	851.00	851.00	.00	.00	65.46
Marion	17	0	1,170.00	1,170.00	.00	.00	68.82
Marshall	26	0	1,896.00	1,896.00	.00	.00	72.92
Mobile	112	2	8,243.00	8,061.00	182.00	.00	73.60
Monroe	8	0	548.00	548.00	.00	.00	68.50
Montgomery	79	0	5,707.00	5,707.00	.00	.00	72.24
Morgan	18	2	1,569.00	1,169.00	400.00	.00	87.17
Perry	16	0	1,019.00	1,019.00	.00	.00	63.69
Pickens	21	0	1,459.00	1,459.00	.00	.00	69.48
Pike	14	0	922.00	922.00	.00	.00	65.86
Randolph	16	0	1,157.00	1,157.00	.00	.00	72.31
Russell	20	0	1,393.00	1,393.00	.00	.00	69.65
Saint Clair	15	0	842.00	842.00	.00	.00	56.13
Shelby	21	0	1,534.00	1,534.00	.00	.00	73.05
Sumter	19	0	1,397.00	1,397.00	.00	.00	73.53
Talladega	115	3	8,053.00	7,453.00	600.00	.00	70.03
Tallapoosa	29	1	2,368.00	2,218.00	150.00	.00	81.66
Tuscaloosa	56	0	3,950.00	3,950.00	.00	.00	70.54
Walker	31	1	2,524.00	2,324.00	200.00	.00	81.42
Washington	5	0	329.00	329.00	.00	.00	65.80
Wilcox	16	0	1,104.00	1,104.00	.00	.00	69.00
Winston	9	0	527.00	527.00	.00	.00	75.29

1/ Table includes data for vendor payments for medical care.

2/ Cases receiving vendor payments for nursing home care from State and Federal funds.

3/ Payments from local funds only.

4/ Based on 1,826 AB recipients, average vendor payment per recipient for medical care for the month of January was $2.19 including some payments from local public funds.

AID TO DEPENDENT CHILDREN

A total of 17,197 families of dependent children with an average of 4.29 recipients per family received payments totaling $905,862.14 for the month of January. In these 17,197 families there were 71,228 recipients, including 56,822 children, who received payment. The average monthly payment was $12.72 per recipient. Reference is made to the September 1966 issue of Statistics, Table 18, for the most recent release by the Welfare Administration on the number of children receiving aid to dependent children per 1,000 population under 18 years of age for the Nation and twelve Southern States.

Table 5. AID TO DEPENDENT CHILDREN 1/

JANUARY 1967

County	NUMBER RECEIVING PAYMENTS			Amount of Payments	AVERAGE PAYMENT	
	Families	Recipients Total	Children		Per Family	Per Recipient
TOTAL 2/	17,197	71,228	56,822	$905,862.14	$52.68	$12.72
Autauga	140	626	507	7,402.00	52.87	11.82
Baldwin	182	782	645	9,765.00	53.65	12.49
Barbour	317	1,306	1,036	15,243.00	48.09	11.67
Bibb	117	481	384	6,063.98	51.83	12.61
Blount	93	334	254	4,953.51	53.26	14.83
Bullock	78	319	265	4,041.50	51.81	12.67
Butler	142	580	463	6,896.00	48.56	11.89
Calhoun	735	2,950	2,328	39,515.21	53.76	13.39
Chambers	143	585	464	6,653.00	46.52	11.37
Cherokee	57	227	181	2,844.00	49.89	12.53
Chilton	95	338	256	4,207.00	44.28	12.45
Choctaw	225	927	742	11,917.00	52.96	12.86
Clarke	108	437	354	4,982.00	46.13	11.40
Clay	60	220	171	2,864.00	47.73	13.02
Cleburne	57	192	144	2,780.00	48.77	14.48
Coffee	179	740	596	9,504.00	53.09	12.84
Colbert	316	1,303	1,030	16,629.00	52.62	12.76
Conecuh	135	521	414	6,514.00	48.25	12.50
Coosa	68	267	214	3,275.00	48.16	12.27
Covington	173	661	524	8,460.00	48.90	12.80
Crenshaw	147	566	440	7,122.00	48.45	12.58
Cullman	169	586	439	8,133.00	48.12	13.88
Dale	136	537	426	6,396.00	47.03	11.91
Dallas	372	1,638	1,311	19,925.00	53.56	12.16
DeKalb	283	1,001	765	14,455.90	51.08	14.44
Elmore	74	320	257	3,657.00	49.42	11.43
Escambia	77	236	188	3,083.00	40.04	13.06
Etowah	452	1,791	1,389	24,180.37	53.50	13.50
Fayette	70	232	177	3,229.00	46.13	13.92
Franklin	150	536	402	7,253.00	48.35	13.53

Table 5. (Cont'd) AID TO DEPENDENT CHILDREN 1/

JANUARY 1967

County	NUMBER RECEIVING PAYMENTS			Amount of Payments	AVERAGE PAYMENT	
		Recipients			Per	Per
	Families	Total	Children		Family	Recipie
Geneva	112	487	391	5,711.78	51.00	11.7
Greene 167	47	193	159	2,408.00	51.23	12.4
Hale 187	159	711	590	9,020.00	56.73	12.6
Henry	144	551	439	6,919.00	48.05	12.5
Houston	292	1,176	936	14,256.25	48.82	12.1
Jackson	216	863	671	10,978.71	50.83	12.7
Jefferson	2,170	9,294	7,433	118,306.80	54.52	12.7
Lamar	87	279	211	3,939.00	45.28	14.1
Lauderdale	239	927	713	12,452.00	52.10	13.4
Lawrence	302	1,276	1,022	16,386.00	54.26	12.8
Lee	195	771	627	9,658.98	49.53	12.5
Limestone	243	981	777	12,432.00	51.16	12.6
Lowndes	136	691	569	7,931.00	58.32	11.4
Macon	151	690	566	9,140.00	60.53	13.2
Madison	497	2,125	1,704	26,790.25	53.90	12.6
Marengo	164	801	668	8,927.00	54.43	11.1
Marion	136	502	375	6,361.46	46.78	12.6
Marshall	227	846	652	11,671.60	51.42	13.8
Mobile	1,807	8,425	6,851	107,738.50	59.62	12.7
Monroe	85	362	296	4,313.00	50.74	11.9
Montgomery	381	1,680	1,387	19,220.00	50.45	11.4
Morgan	353	1,308	1,028	17,725.50	50.21	13.5
Perry	168	764	624	8,934.00	53.18	11.6
Pickens	392	1,703	1,385	21,872.00	55.80	12.8
Pike	68	295	239	3,780.18	55.59	12.8
Randolph	45	175	140	2,168.00	48.18	12.3
Russell	124	492	392	4,470.00	36.05	9.0
Saint Clair	75	268	204	3,347.00	44.63	12.4
Shelby	165	631	497	8,050.00	48.79	12.7
Sumter	135	560	459	6,735.00	49.89	12.0
Talladega	529	2,215	1,769	28,376.00	53.64	12.8
Tallapoosa	254	904	707	10,989.00	43.26	12.1
Tuscaloosa	908	3,720	2,990	48,549.00	53.47	13.0
Walker	558	2,187	1,684	29,856.00	53.51	13.6
Washington	84	344	274	4,553.66	54.21	13.2
Wilcox	111	493	402	6,042.00	54.43	12.2
Winston	88	299	225	3,910.00	44.43	13.0

1/ Table includes data for vendor payments for medical care.

2/ In some instances payments were made for care of some of those children in Day Care Centers or in Family Day Care Homes in instances where the grantee relative was working away from home part of the day.

— AID TO CHILDREN —

AID TO CHILDREN IN FOSTER CARE

Children receiving aid through foster care provided through county departments of pensions and security numbered 2,001 for January with the amount of payments totaling $80,890.38 or an average of $40.42 per child.

Table 6. AID TO CHILDREN IN FOSTER CARE 1/

JANUARY 1967

County	Number of Children	Amount of Payments	Average Per Child 2/
TOTAL	2,001	$80,890.38	$40.42
Autauga	5	200.00	40.00
Baldwin	12	450.00	37.50
Barbour	20	767.00	38.35
Bibb	18	673.13	37.40
Blount	18	697.84	38.77
Bullock	3	120.00	40.00
Butler	14	535.00	38.21
Calhoun	86	3,553.00	41.31
Chambers	12	535.92	44.66
Cherokee	12	593.67	49.47
Chilton	1	40.00	40.00
Choctaw	19	674.00	35.47
Clarke	7	310.00	44.29
Clay	2	80.00	40.00
Cleburne	4	160.00	40.00
Coffee	1	40.00	40.00
Colbert	17	707.00	41.59
Conecuh	16	640.00	40.00
Coosa	8	386.00	48.25
Covington	34	1,162.00	34.18
Crenshaw	24	935.00	38.96
Cullman	13	637.73	49.06
Dale	12	333.44	27.79
Dallas	23	795.00	34.57
DeKalb	25	1,167.36	46.69
Elmore	30	1,101.55	36.72
Escambia	17	660.00	38.82
Etowah	35	1,934.60	2/
Fayette	1	12.00	12.00
Franklin	16	679.03	42.44

Table 6. (Cont'd) AID TO CHILDREN IN FOSTER CARE 1/

JANUARY 1967

County	Number of Children	Amount of Payments	Average Per Child 2/
Geneva	11	445.00	40.45
Greene	0	.00	.00
Hale	3	120.00	40.00
Henry	1	35.00	35.00
Houston	14	608.67	43.48
Jackson	57	2,421.16	42.48
Jefferson	389	15,318.13	39.38
Lamar	2	69.00	34.50
Lauderdale	34	1,430.00	42.06
Lawrence	26	1,000.00	38.46
Lee	16	656.82	41.05
Limestone	7	261.24	37.32
Lowndes	13	455.00	35.00
Macon	16	555.00	34.69
Madison	85	3,581.11	42.13
Marengo	13	380.00	29.23
Marion	3	261.52	2/
Marshall	65	2,557.50	39.35
Mobile	262	11,253.22	42.95
Monroe	1	40.00	40.00
Montgomery	54	2,197.13	40.69
Morgan	105	3,940.89	37.53
Perry	6	230.00	38.33
Pickens	11	473.48	43.04
Pike	37	1,476.80	39.91
Randolph	11	618.20	2/
Russell	6	263.89	43.98
Saint Clair	36	1,417.00	39.36
Shelby	15	501.16	33.41
Sumter	7	280.00	40.00
Talladega	29	1,048.00	36.14
Tallapoosa	11	414.00	37.64
Tuscaloosa	93	3,667.85	39.44
Walker	34	1,455.34	42.80
Washington	10	400.00	40.00
Wilcox	0	.00	.00
Winston	13	478.00	36.77

1/ Excludes those children reported in foster care whose board is paid from private funds.

2/ Averages are not representative in some counties as children were sometime in boarding homes for only part of the month. Also, in other instances, payments are higher than usual due to unusual care required because of special needs.

AID TO CHILDREN RECEIVING DAY CARE

Payments by the Department for day care of children totaled $17,590.00 for 514 children for the month of January. This included payments totaling $15,606.00 for 453 children in Day Care Centers and $1,984.00 for 62 children in Family Day Care Homes. The average monthly payment per child for the State as a whole was $34.22.

Table 7. AID TO CHILDREN RECEIVING DAY CARE

JANUARY 1967

County	TOTAL No. of Children	TOTAL Amount of Payments	DAY CARE CENTERS No. of Children	DAY CARE CENTERS Amount of Payments	FAMILY DAY CARE HOMES No. of Children	FAMILY DAY CARE HOMES Amount of Payments
TOTAL	514 1/	$17,590.00	453	$15,606.00	62	$1,984.00
Autauga	0	.00	0	.00	0	.00
Baldwin	0	.00	0	.00	0	.00
Barbour	20	388.00	0	.00	20	388.00
Bibb	0	.00	0	.00	0	.00
Blount	0	.00	0	.00	0	.00
Bullock	0	.00	0	.00	0	.00
Butler	0	.00	0	.00	0	.00
Calhoun	12	544.00	12	544.00	0	.00
Chambers	4	158.00	0	.00	4	158.00
Cherokee	0	.00	0	.00	0	.00
Chilton	0	.00	0	.00	0	.00
Choctaw	0	.00	0	.00	0	.00
Clarke	0	.00	0	.00	0	.00
Clay	0	.00	0	.00	0	.00
Cleburne	0	.00	0	.00	0	.00
Coffee	10	340.00	10	340.00	0	.00
Colbert	2	78.00	0	.00	2	78.00
Conecuh	0	.00	0	.00	0	.00
Coosa	0	.00	0	.00	0	.00
Covington	0	.00	0	.00	0	.00
Crenshaw	0	.00	0	.00	0	.00
Cullman	0	.00	0	.00	0	.00
Dale	0	.00	0	.00	0	.00
Dallas	5	85.00	0	.00	5	85.00
DeKalb	0	.00	0	.00	0	.00
Elmore	0	.00	0	.00	0	.00
Escambia	0	.00	0	.00	0	.00
Etowah	0	.00	0	.00	0	.00
Fayette	0	.00	0	.00	0	.00
Franklin	2	84.00	2	84.00	0	.00

Table 7. (Cont'd) AID TO CHILDREN RECEIVING DAY CARE

JANUARY 1967

County	TOTAL No. of Children	TOTAL Amount of Payments	DAY CARE CENTERS No. of Children	DAY CARE CENTERS Amount of Payments	FAMILY DAY CARE HOMES 1/ No. of Children	FAMILY DAY CARE HOMES 1/ Amount of Payments
Geneva	0	.00	0	.00	0	.00
Greene	0	.00	0	.00	0	.00
Hale	0	.00	0	.00	0	.00
Henry	0	.00	0	.00	0	.00
Houston	75	2,712.00	75	2,712.00	0	.00
Jackson	0	.00	0	.00	0	.00
Jefferson	40	1,263.00	33	942.00	7	321.00
Lamar	0	.00	0	.00	0	.00
Lauderdale	0	.00	0	.00	0	.00
Lawrence	1	6.00	0	.00	1	6.00
Lee	11	435.00	11	435.00	0	.00
Limestone	0	.00	0	.00	0	.00
Lowndes	0	.00	0	.00	0	.00
Macon	0	.00	0	.00	0	.00
Madison	0	.00	0	.00	0	.00
Marengo	0	.00	0	.00	0	.00
Marion	0	.00	0	.00	0	.00
Marshall	0	.00	0	.00	0	.00
Mobile	92	3,040.00	90	2,962.00	2	78.00
Monroe	0	.00	0	.00	0	.00
Montgomery	13	452.00	13	452.00	0	.00
Morgan	54	2,540.00	48	1,860.00	17	680.00
Perry	0	.00	0	.00	0	.00
Pickens	0	.00	0	.00	0	.00
Pike	18	630.00	18	630.00	0	.00
Randolph	0	.00	0	.00	0	.00
Russell	0	.00	0	.00	0	.00
Saint Clair	0	.00	0	.00	0	.00
Shelby	18	900.00	15	750.00	3	150.00
Sumter	0	.00	0	.00	0	.00
Talladega	0	.00	0	.00	0	.00
Tallapoosa	81	2,760.00	80	2,720.00	1	40.00
Tuscaloosa	46	1,175.00	46	1,175.00	0	.00
Walker	0	.00	0	.00	0	.00
Washington	0	.00	0	.00	0	.00
Wilcox	0	.00	0	.00	0	.00
Winston	0	.00	0	.00	0	.00

1/ When a child received care in both a Day Care Center and a Family Day Care Home during the month, he was counted only once under Total Number of Children

AID TO PERMANENTLY AND TOTALLY DISABLED

A total of 15,098 cases with an average of 1.00 persons per case received payment during January under the classification of aid to permanently and totally disabled. Payments paid to these cases totaled $777,513.37 or an average of $51.50 per case. Reference is made to the September 1966 issue of Statistics, Table 20, for the most recent release by the Welfare Administration on the number of permanently and totally disabled recipients per 1,000 population aged 18-64 years for the Nation and twelve Southern States.

Table 8. AID TO PERMANENTLY AND TOTALLY DISABLED 1/

JANUARY 1967

County	No. of Cases Receiving Payment		Amount of Payments				
	Total	Nursing Home Care 2/	Total	Money Payments	Vendor Payments: Nursing Home Care	Vendor Payments: Other 3/	Average Per Case 4/
TOTAL	15,098	536	$777,513.37	$682,131.00	$93,951.00	$1,431.37	$51.50
Autauga	106	3	5,233.00	4,785.00	548.00	.00	50.31
Baldwin	137	7	7,168.00	5,861.00	1,307.00	.00	52.32
Barbour	223	3	10,729.00	10,230.00	499.00	.00	48.11
Bibb	120	1	5,420.00	5,253.00	167.00	.00	45.17
Blount	139	3	6,716.00	6,116.00	600.00	.00	48.32
Bullock	86	2	3,970.00	3,570.00	400.00	.00	46.16
Butler	130	1	5,904.00	5,704.00	200.00	.00	45.42
Calhoun	336	19	17,935.57	14,541.00	3,283.00	111.57	53.38
Chambers	171	7	8,401.00	7,247.00	1,154.00	.00	49.13
Cherokee	75	1	3,470.00	3,282.00	188.00	.00	46.27
Chilton	158	0	6,558.00	6,558.00	.00	.00	41.51
Choctaw	167	1	7,884.00	7,857.00	27.00	.00	47.21
Clarke	90	1	3,688.00	3,538.00	150.00	.00	40.98
Clay	125	8	6,679.00	5,203.00	1,476.00	.00	53.43
Cleburne	66	4	3,814.00	3,032.00	782.00	.00	57.79
Coffee	201	3	10,183.00	9,595.00	588.00	.00	50.66
Colbert	243	7	11,815.00	10,415.00	1,400.00	.00	48.62
Conecuh	143	4	7,582.00	6,982.00	600.00	.00	53.02
Coosa	77	1	3,843.00	3,729.00	114.00	.00	49.91
Covington	260	10	14,312.00	12,640.00	1,672.00	.00	55.05
Crenshaw	159	6	9,662.00	8,665.00	997.00	.00	60.77
Cullman	236	16	13,856.00	10,688.00	3,168.00	.00	58.71
Dale	168	2	8,188.00	7,788.00	400.00	.00	48.74
Dallas	299	0	12,985.00	12,985.00	.00	.00	43.43
DeKalb	306	4	15,920.00	15,266.00	654.00	.00	52.03
Elmore	99	10	5,980.75	4,049.00	1,894.00	37.75	60.41
Escambia	104	2	4,930.00	4,580.00	350.00	.00	47.40
Etowah	432	14	22,741.96	19,176.00	2,586.00	979.96	52.64
Fayette	102	3	5,079.00	4,523.00	556.00	.00	49.79
Franklin	203	12	10,730.00	8,446.00	2,284.00	.00	52.86

Table 8. (Cont'd) AID TO PERMANENTLY AND TOTALLY DISABLED 1/

JANUARY 1967

County	No. of Cases Receiving Payment		Amount of Payments				
					Vendor Payments		Average Per Case 4/
	Total	Nursing Home Care 2/	Total	Money Payments	Nursing Home Care	Other 3/	
Geneva	164	1	7,259.00	7,059.00	200.00	.00	44.26
Greene	74	1	3,280.00	3,156.00	124.00	.00	44.32
Hale	75	4	3,846.00	3,246.00	600.00	.00	51.28
Henry	122	0	5,949.00	5,949.00	.00	.00	48.76
Houston	271	8	14,210.00	12,769.00	1,441.00	.00	52.44
Jackson	252	0	11,758.00	11,758.00	.00	.00	46.66
Jefferson	1,519	124	86,870.85	66,252.00	20,548.00	70.85	57.19
Lamar	181	7	9,510.00	8,161.00	1,349.00	.00	52.54
Lauderdale	287	13	15,160.00	13,048.00	2,112.00	.00	52.82
Lawrence	242	4	12,309.00	11,509.00	800.00	.00	50.86
Lee	192	7	9,881.65	8,461.00	1,380.00	40.65	51.47
Limestone	254	9	13,133.00	11,512.00	1,621.00	.00	51.70
Lowndes	71	0	3,116.00	3,116.00	.00	.00	43.89
Macon	72	0	2,971.00	2,971.00	.00	.00	41.26
Madison	398	11	19,560.00	17,769.00	1,791.00	.00	49.15
Marengo	125	2	5,614.00	5,214.00	400.00	.00	44.91
Marion	269	12	13,769.00	11,653.00	2,116.00	.00	51.19
Marshall	291	9	14,859.00	13,071.00	1,788.00	.00	51.06
Mobile	818	37	44,179.01	37,831.00	6,225.00	123.01	54.01
Monroe	97	4	4,958.00	4,294.00	664.00	.00	51.11
Montgomery	403	11	20,257.00	18,441.00	1,816.00	.00	50.27
Morgan	337	15	19,613.00	16,853.00	2,734.00	26.00	58.20
Perry	93	2	4,450.00	4,100.00	350.00	.00	47.85
Pickens	221	2	10,619.00	10,244.00	375.00	.00	48.05
Pike	97	2	4,508.00	4,118.00	375.00	15.00	46.47
Randolph	125	0	5,341.00	5,341.00	.00	.00	42.73
Russell	210	12	11,380.00	9,184.00	2,196.00	.00	54.19
Saint Clair	142	6	7,067.00	5,968.00	1,099.00	.00	49.77
Shelby	172	1	8,139.00	7,939.00	200.00	.00	47.32
Sumter	109	3	5,215.00	4,740.00	475.00	.00	47.84
Talladega	411	12	20,324.00	18,503.00	1,821.00	.00	49.45
Tallapoosa	344	27	20,733.58	15,990.00	4,742.00	1.58	60.27
Tuscaloosa	518	9	25,835.00	24,290.00	1,545.00	.00	49.87
Walker	579	16	30,963.00	27,866.00	3,072.00	25.00	53.48
Washington	112	0	5,055.00	5,055.00	.00	.00	45.13
Wilcox	102	0	4,300.00	4,300.00	.00	.00	42.16
Winston	188	10	10,044.00	8,096.00	1,948.00	.00	53.43

1/ Includes data for vendor payments for medical care.
2/ Cases receiving vendor payments for nursing home care from State and Federal funds.
3/ Payments from local funds only.
4/ Based on 15,098 APTD recipients, average vendor payment per recipient for medical care for the month of January was $6.31 including some payments from local public funds.

TEMPORARY AID

There were 84 families with an average of 1.00 persons per family who received temporary aid totaling $1,107.43 for January as compared with 84 families who received $1,111.00 for December. Monthly payments averaged $13.18 in January and $13.23 in December. These are families who are not otherwise eligible for aid but who are in need of emergency care.

Table 9. TEMPORARY AID 1/

JANUARY 1967

County	Number of Cases	Amount of Payments	Average Per Case
TOTAL	84	$1,107.43	$13.18
Autauga	1	12.50	12.50
Baldwin	0	.00	.00
Barbour	2	25.00	12.50
Bibb	0	.00	.00
Blount	0	.00	.00
Bullock	0	.00	.00
Butler	0	.00	.00
Calhoun	0	.00	.00
Chambers	0	.00	.00
Cherokee	1	12.50	12.50
Chilton	0	.00	.00
Choctaw	1	12.50	12.50
Clarke	0	.00	.00
Clay	0	.00	.00
Cleburne	0	.00	.00
Coffee	1	12.50	12.50
Colbert	0	.00	.00
Conecuh	0	.00	.00
Coosa	1	12.50	12.50
Covington	2	25.00	12.50
Crenshaw	1	12.50	12.50
Cullman	0	.00	.00
Dale	0	.00	.00
Dallas	2	25.00	12.50
DeKalb	0	.00	.00
Elmore	4	50.00	12.50
Escambia	0	.00	.00
Etowah	2	25.00	12.50
Fayette	0	.00	.00
Franklin	0	.00	.00

Table 9. (Cont'd) TEMPORARY AID 1/

JANUARY 1967

County	Number of Cases	Amount of Payments	Average Per Case
Geneva	0	.00	.00
Greene	1	12.50	12.50
Hale	6	75.00	12.50
Henry	0	.00	.00
Houston	0	.00	.00
Jackson	1	12.50	12.50
Jefferson	10	137.50	13.75
Lamar	0	.00	.00
Lauderdale	4	50.00	12.50
Lawrence	3	37.50	12.50
Lee	1	12.50	12.50
Limestone	2	25.00	12.50
Lowndes	0	.00	.00
Macon	1	12.50	12.50
Madison	2	25.00	12.50
Marengo	0	.00	.00
Marion	1	12.50	12.50
Marshall	0	.00	.00
Mobile	12	166.60	13.88
Monroe	0	.00	.00
Montgomery	6	100.00	16.67
Morgan	1	15.83	15.83
Perry	0	.00	.00
Pickens	0	.00	.00
Pike	0	.00	.00
Randolph	5	62.50	12.50
Russell	0	.00	.00
Saint Clair	0	.00	.00
Shelby	1	12.50	12.50
Sumter	0	.00	.00
Talladega	0	.00	.00
Tallapoosa	1	12.50	12.50
Tuscaloosa	6	75.00	12.50
Walker	0	.00	.00
Washington	0	.00	.00
Wilcox	0	.00	.00
Winston	2	25.00	12.50

1/ Amount for temporary aid may include some emergency payments from local public funds.

Table 10. APPLICATIONS WHICH WERE IN PROCESS OF INVESTIGATION BY COUNTY DEPARTMENTS

JANUARY 31, 1967

County	Total	Old Age Pensions	Aid to Blind	Aid to Dependent Children	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged
TOTAL	5,804	2,363	91	1,665	1,507	136	42
Autauga	40	17	0	17	2	2	2
Baldwin	99	38	3	27	26	1	4
Barbour	55	25	0	10	18	2	0
Bibb	17	5	0	6	4	2	0
Blount	61	20	0	17	22	1	1
Bullock	24	10	0	3	11	0	0
Butler	26	10	0	6	9	0	1
Calhoun	278	119	2	63	79	2	13
Chambers	57	22	0	13	21	0	1
Cherokee	63	38	0	10	12	3	0
Chilton	32	13	0	8	11	0	0
Choctaw	40	14	4	15	7	0	0
Clarke	91	54	1	27	8	0	1
Clay	10	4	1	0	5	0	0
Cleburne	18	12	0	3	3	0	0
Coffee	41	10	0	11	18	1	1
Colbert	81	31	1	37	12	0	0
Conecuh	40	16	3	3	18	0	0
Coosa	12	7	0	0	4	1	0
Covington	53	24	1	12	15	0	1
Crenshaw	24	6	0	6	12	0	0
Cullman	132	64	2	26	40	0	0
Dale	56	20	2	20	14	0	0
Dallas	118	57	2	32	26	1	0
DeKalb	114	50	1	29	33	1	0
Elmore	43	23	0	7	12	1	0
Escambia	22	15	3	0	4	0	0
Etowah	126	27	2	56	38	2	1
Fayette	43	14	1	13	15	0	0
Franklin	39	13	0	9	17	0	0
Geneva	75	30	2	25	18	0	0
Greene	36	27	0	0	8	1	0
Hale	36	16	0	8	4	8	0
Henry	23	15	3	2	3	0	0
Houston	51	28	2	4	17	0	0

Table 10. (Cont'd) APPLICATIONS WHICH WERE IN PROCESS OF INVESTIGATION BY COUNTY DEPARTMENTS

JANUARY 31, 1967

County	Total	Old Age Pensions	Aid to Blind	Aid to Dependent Children	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged
Jackson	56	14	1	22	19	0	0
Jefferson	1,284	569	15	415	225	60	0
Lamar	29	12	3	4	10	0	0
Lauderdale	93	31	2	31	28	1	0
Lawrence	14	2	1	11	0	0	0
Lee	18	2	2	4	10	0	0
Limestone	50	19	1	13	16	1	0
Lowndes	15	9	0	1	5	0	0
Macon	34	9	1	10	14	0	0
Madison	95	0	1	42	49	0	3
Marengo	94	58	0	20	15	1	0
Marion	41	17	0	7	16	0	1
Marshall	91	40	2	21	28	0	0
Mobile	552	160	6	224	128	30	4
Monroe	36	14	1	13	8	0	0
Montgomery	224	146	0	45	32	0	1
Morgan	39	5	1	16	13	3	1
Perry	25	23	0	0	2	0	0
Pickens	44	18	1	15	8	2	0
Pike	49	36	1	4	8	0	0
Randolph	38	18	2	15	2	0	1
Russell	82	28	1	27	22	1	3
Saint Clair	29	6	2	5	15	0	1
Shelby	83	39	0	17	26	1	0
Sumter	64	30	0	13	21	0	0
Talladega	84	6	0	39	38	1	0
Tallapoosa	40	8	4	4	21	2	1
Tuscaloosa	189	63	3	46	75	2	0
Walker	146	48	3	30	63	2	0
Washington	36	17	1	12	6	0	0
Wilcox	19	9	0	5	5	0	0
Winston	35	13	0	9	13	0	0

Table 11. PUBLIC ASSISTANCE AND SERVICE CASES WHICH WERE UNDER CARE OF COUNTY DEPARTMENTS

JANUARY 31, 1967

County	Total	Old Age Pensions	Aid to Blind	AID TO CHILDREN: Aid to Dependent Children 1/ Families	AID TO CHILDREN: Children in Foster Care	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged	Service
TOTAL	156,650	112,312	1,849	17,365	2,117	15,207	112	257	7,431 2/
Autauga	1,141	838	16	143	5	105	1	2	31
Baldwin	1,746	1,285	28	184	15	135	0	0	99
Barbour	1,956	1,316	17	322	20	224	2	1	54
Bibb	1,019	701	7	119	18	120	1	0	53
Blount	1,633	1,310	11	95	21	141	0	7	48
Bullock	1,040	845	10	80	3	87	0	0	15
Butler	1,633	1,293	14	141	14	132	0	3	36
Calhoun	3,995	2,487	36	738	89	340	1	12	292
Chambers	1,851	1,427	25	149	12	267	1	0	70
Cherokee	802	604	5	66	12	78	1	2	34
Chilton	1,661	1,345	20	99	2	159	0	1	34
Choctaw	1,435	952	26	229	19	167	1	0	41
Clarke	1,382	1,088	10	108	7	91	0	4	74
Clay	1,145	940	13	63	2	122	0	0	5
Cleburne	658	513	4	58	4	67	0	1	11
Coffee	1,846	1,386	35	183	3	200	3	2	34
Colbert	2,269	1,521	26	329	19	245	0	4	125
Conecuh	1,469	1,154	14	132	16	141	0	0	12
Coosa	705	519	7	69	9	79	1	0	21
Covington	2,577	1,978	43	174	35	261	2	2	82
Crenshaw	1,461	1,080	16	148	25	157	1	1	33
Cullman	2,773	2,243	18	172	14	240	0	14	72
Dale	1,495	1,038	28	136	14	173	1	2	103
Dallas	3,488	2,549	33	382	26	304	2	0	192
DeKalb	2,864	2,112	22	283	28	317	1	1	100
Elmore	1,496	1,162	20	75	30	98	4	1	106
Escambia	1,535	1,247	17	81	17	104	0	1	68
Etowah	4,074	2,905	42	452	48	429	4	11	183
Fayette	1,155	938	25	70	1	103	0	1	17
Franklin	1,776	1,318	14	151	17	202	0	0	74
Geneva	1,532	1,177	32	113	12	165	0	1	32
Greene	1,026	882	8	46	0	74	1	2	13
Hale	1,374	1,093	12	159	3	75	6	0	26
Henry	1,038	744	14	143	2	121	0	2	12
Houston	2,799	2,007	39	291	12	272	0	8	170

Table 11. (Cont'd) PUBLIC ASSISTANCE AND SERVICE CASES WHICH WERE UNDER CARE OF COUNTY DEPARTMENTS

JANUARY 31, 1967

County	Total	Old Age Pensions	Aid to Blind	AID TO CHILDREN: Aid to Dependent Children 1/ Families	AID TO CHILDREN: Children in Foster Care	Aid to Permanently & Totally Disabled	Temporary Aid	Medical Assistance for the Aged	Ser ice
Jackson	2,232	1,528	24	220	57	254	1	7	1
Jefferson	19,188	13,590	258	2,188	397	1,526	10	46	1,1
Lamar	1,326	987	21	95	2	182	0	3	
Lauderdale	2,836	2,107	34	246	38	300	4	4	1
Lawrence	1,913	1,265	15	305	28	243	3	1	
Lee	1,928	1,413	25	198	16	192	1	2	
Limestone	2,109	1,497	33	247	9	263	2	2	
Lowndes	1,002	744	5	135	13	73	0	0	
Macon	1,342	1,033	8	151	16	72	1	4	
Madison	4,173	2,583	42	508	98	415	2	7	5
Marengo	1,741	1,354	13	169	13	124	1	2	
Marion	1,972	1,509	17	136	3	271	1	3	
Marshall	2,886	2,044	26	232	72	289	0	3	2
Mobile	9,377	5,503	112	1,794	281	816	18	36	8
Monroe	1,363	1,142	8	85	1	97	0	0	
Montgomery	4,951	3,777	79	381	68	410	6	11	2
Morgan	3,151	2,119	17	366	103	346	2	8	1
Perry	1,382	1,080	16	170	6	94	0	2	
Pickens	2,096	1,388	21	398	14	222	0	2	
Pike	1,510	1,194	14	76	38	100	0	0	
Randolph	1,428	1,128	16	45	12	126	5	1	
Russell	2,008	1,538	20	120	10	213	1	14	
Saint Clair	1,370	1,012	16	79	36	142	0	0	
Shelby	1,646	1,210	21	162	17	174	1	0	
Sumter	1,523	1,200	19	139	9	109	0	2	
Talladega	3,606	2,381	116	528	28	413	5	4	1
Tallapoosa	2,449	1,705	29	262	11	341	2	1	
Tuscaloosa	4,971	3,169	56	901	90	516	10	8	2
Walker	4,045	2,682	31	558	34	579	0	0	1
Washington	959	697	5	85	10	114	0	0	
Wilcox	1,166	923	16	112	0	103	0	0	
Winston	1,152	812	9	91	13	193	2	0	

1/ Includes 100 families receiving ADC-Service Only.

2/ In these 7,431 cases there were 8,063 children.

WARDS UNDER CARE OF STATE DEPARTMENT OF PENSIONS AND SECURITY

Through the Division of Foster Home Care of the Bureau of Child Welfare, the Department was at the end of January acting as legal custodian to 650 ren who were under its direct care. These children who were placed in r free or boarding homes have been received from counties on a temporary rmanent basis as the situation warranted. Homes providing foster care hildren are required to meet standards prescribed by the State Board of ons and Security.

Table 12. NUMBER OF WARDS UNDER CARE OF STATE DEPARTMENT OF PENSIONS AND SECURITY

JANUARY 1967

r of children under care January 1, 1967	646
r of children received during month	27
number of children receiving care during month 1/	673
r of children discharged during month	23
r under care January 31, 1967	650

here were during the month 248 of these children who were under financial are.

WHEREABOUTS OF WARDS AT BEGINNING AND END OF MONTH

	January 1, 1967	January 31, 1967
r of wards under care	646	650
ildren receiving foster home care	633	636
Number in foster homes under supervision	610	613
Number in institutions	23	23
ildren in their own homes or homes of relatives	13	14
Number in their own homes under supervision	3	3
Number in homes of relatives under supervision	10	11

ADOPTIONS

The State Department of Pensions and Security, or its duly authorized agents, is charged with responsibility to verify the allegations of all adoption petitions filed in the courts having jurisdiction, to make thorough investigation of proposed adoptions, to report the findings to the court and to perform supervisory service to the adoptive home prior to final action by the court. The State Department of Pensions and Security has authorized the county departments of pensions and security and other licensed agencies to perform these services. Through an agreement with the courts having jurisdiction, reports are due within 60 days unless legal action is temporarily postponed. The figures in Table 13 show that 624 children were in adoptive homes under supervision on January 31, 1961

Table 13. CHILDREN FOR WHOM ADOPTIVE PETITIONS WERE REFERRED BY PROBATE COURTS

	Number of Children for Whom Petitions Were Referred by Courts
A. PETITIONS PENDING FIRST REPORT TO COURT	
1. Number pending first report to court at beginning of month	1,134
2. Number referred during month	251
3. Total number pending first report to court during month	1,385
4. Number for whom first report was made to court during month	229
a. Number reported as favorable	209
b. Number reported as unfavorable	20
5. Number pending first report to court at end of month	1,156
B. CASES UNDER SUPERVISION PENDING NOTICE OF FINAL ACTION OF COURT	
1. Number under supervision at beginning of month	629
2. Number added during month	152
3. Total number under supervision during month	781
4. Total number closed during month	157
a. Number closed by final action of court	156
b. Number closed for other reasons	1
5. Number under supervision at end of month	624

-- CHILDREN UNDER SUPERVISION AWAY FROM THEIR OWN OR RELATED HOMES —

Table 14

CHILDREN UNDER CARE OF PUBLIC AND PRIVATE CHILD-CARING INSTITUTIONS, CHILD-PLACING AGENCIES AND DAY CARE FACILITIES

The State Department of Pensions and Security or its duly authorized agency is by law charged with the responsibility of licensing private child-caring institutions, agencies and day care facilities. Seventeen child-caring institutions, seven child-placing agencies, seven detention homes, one hundred forty-eight day care centers, and one hundred thirty-seven family day care homes are at the present time licensed by the State or county departments. The department serves in an advisory capacity to all these agencies in assisting them to meet and maintain prescribed standards. There are, in addition, four State institutions which are not required to be licensed and four maternity hospitals which are licensed by the State Health Department. These, however, report monthly to the State Department of Pensions and Security as to their admissions and discharges.

CHILD-CARING INSTITUTIONS AND CHILD-PLACING AGENCIES

Total number of children under care January 31, 1967	4,184
1. Number under care of child-caring institutions	3,971
a. Public	3,111
b. Private	860
2. Number under care of private child-placing agencies	213

DAY CARE FACILITIES

Total number of children under care January 31, 1967	5,515
1. In private day care centers	5,181
2. In private family day care homes	334

Table 15

CHILDREN AWAY FROM THEIR OWN OR RELATED HOMES UNDER CARE OF STATE AND COUNTY DEPARTMENTS OF PENSIONS AND SECURITY

January 31, 1967

Children Under Supervision In:	Number of Children
TOTAL	3,432
Boarding homes	2,397
Adoptive homes (Unrelated-Petitions having been filed)	763
Free unrelated homes	240
Work or wage homes	1
Elsewhere	31

JUVENILE COURT

Alabama's Public Welfare law provides that the county directors of pensions and security may be designated by the juvenile court judge as probation officers. Six counties have full time courts which employ their own probation staffs--Calhoun, Jefferson, Madison, Mobile, Montgomery, and Tuscaloosa. Though they do not have full time courts, Lauderdale, Lee, and Morgan Counties each has a probation officer. In each of the other 58 counties, the county director of pensions and security has been designated as the juvenile court probation officer. The juvenile courts submit to the State Department of Pensions and Security through the county units monthly reports of the cases handled by the courts. Table 16 is a report of the formal cases handled by the courts during the month of January 1967.

Table 16. JUVENILE COURT CASES

JANUARY 1967

CHILDREN FOR WHOM PETITIONS WERE FILED	NUMBER OF CHILDREN			
	Total	Delinquency		Dependency and Neglect
		Boys	Girls	
Number for whom petitions were pending disposition at beginning of month	1,780	753	235	692
Number for whom petitions were filed during month	698	318	107	273
Total during month	2,478	1,071	442	965
Number for whom petitions were disposed of during month	727	389	95	243
Dismissed	230	146	34	50
Continued generally (held open without further action)	33	25	2	6
Committed to State Department of Pensions and Security	24	xx	xx	24
Committed to institution	83	50	16	17
Public	81	50	16	15
Alabama Boys' Industrial School	25	25	xx	0
State Training School for Girls	4	xx	4	0
Alabama Industrial School for Negro Children	17	13	3	1
Detention Homes	23	12	9	2
Partlow State School	12	0	0	12
Private	2	0	0	2
Placed on probation	180	142	38	xx
Supervised directly by court	148	112	36	xx
Supervised by County PSD	32	30	2	xx
Other disposition	177	26	5	146
Number for whom petitions were pending at end of month	1,751	682	347	722

PLAINTIFFS' EXHIBIT 15.

COMPARATIVE CASELOAD DATA FOR MONTHS OF MAY 1964 AND JUNE 1964

	Number of Cases Receiving Payment			Amount of Payments			Average Payment Per Case		
	May	June	Difference	May	June	Difference	May	June	Difference
TOTAL	151,259	151,413 1/	+154	$9,500,511.04 2/	$9,414,955.85 2/	$-85,555.19	$62.81	$62.18	$- .63
Old Age Pensions	110,015*	110,275*	+260	7,481,505.32	7,406,290.77	-75,214.55	68.00	67.16	- .84
Aid to Blind	1,750*	1,761*	+ 11	108,072.00	113,905.15	+ 5,833.15	61.76	64.68	+2.92
Aid to Dependent Children	22,551	22,373**	-178	1,084,924.95	1,077,363.52**	- 7,561.43	48.11 3/	48.15 3/	+ .04
Aid to Children in Foster Care -- County	1,727	1,704	- 23	61,850.70	60,594.78	- 1,255.92	35.81	35.56	- .25
Aid to Children in Foster Care -- State	366	357	- 9	18,628.13	18,889.64	+ 261.51	50.90	52.91	+2.01
Aid to Permanently and Totally Disabled	14,430*	14,522*	+ 92	669,420.28	670,363.30	+ 943.02	46.39	46.16	- .23
Temporary Aid	83	82	- 1	1,151.81	1,119.28	- 32.53	13.88	13.65	- .23
Medical Assistance for the Aged	258	235	- 23	69,323.85	59,576.41	- 9,747.44	268.70	253.52	-15.18
Aid to Children Receiving Day Care 4/	188	226	+ 38	5,634.00	6,853.00	+ 1,219.00	29.97	30.32	+ .35

	Applications Received During Month			Applications in Process of Investigation at End of Month		
	May	June	Difference	May	June	Difference
TOTAL	3,940	4,203	+263	5,728	5,558	-170
Old Age Pensions	1,696	1,857	+161	1,761	1,778	+ 17
Aid to Blind	62	53	- 9	101	98	- 3
Aid to Dependent Children	947	949	+ 2	1,806	1,718	- 88
Aid to Children in Foster Care	114	123	+ 9	0	0	0
Aid to Permanently and Totally Disabled	804	835	+ 31	1,930	1,809	-121
Temporary Aid	38	47	+ 9	33	44	+ 11
Medical Assistance for the Aged	263	271	+ 8	95	110	+ 15
Aid to Children Receiving Day Care 4/	16	68	+ 52	2	1	- 1

Service Only Cases Under Care
May 31, 1964 ---------- 6,501
June 30, 1964 --------- 6,553

Prepared by:
Bureau of Research and Statistics
July 15, 1964

1/ In instances where a recipient receives more than one type of public assistance, he is counted only once under Total Number of Cases Receiving Payment. Average number of persons per case as of June is as follows: OAP, 1.00; AB, 1.00; ADC, 4.27; APTD, 1.00; TA, 1.00.

2/ Includes total obligations of $6,365.45 from local public funds in May and $7,887.90 in June.

3/ Total recipients numbered 92,614 in May with an average payment of $11.71 per recipient and 92,124 in June with an average payment of $11.69.

4/ Includes payments of $6,102.00 for 189 children in Day Care Centers and $751.00 for 40 children in Family Day Care Homes.

* Vendor payments for medical care including some payments from local public funds averaged $9.58 in May and $8.86 in June per old age pensions recipient. Vendor payments for medical care including some payments from local public funds averaged $2.49 per aid to blind recipient in May and $2.45 in June and $4.65 per aid to permanently and totally disabled recipient in May and $4.45 in June. (See attached statement for more detailed data on medical care.)

** Includes 12 children receiving Aid to Dependent Children--Foster Family Care payments totaling $427.00. These children were removed from 6 ADC families.

FILED
APR 25 1967
R. C. DOBSON, CLERK
By _____
Deputy Clerk

PLAINTIFFS' EXHIBIT 15.

NURSING HOME CARE

	Number Cases Receiving Payment			Amount of Payments			Average Payment Per Case			Average Payment Per Recipient		
	May	June	Difference	May	June	Difference	May	June	Difference	May	June	Difference
TOTAL	4,011	3,840	-171	$597,675.00	$569,472.00	$-28,203.00	$149.01	$148.30	$- .71	$ --	$ --	$ --
Old Age Pensions	3,518	3,363	-155	526,321.00	500,859.00	-25,462.00	149.61	148.93	- .68	4.78	4.54	- .24
Aid to Blind	29	28	- 1	4,364.00	4,205.00	- 159.00	150.48	150.18	- .30	2.49	2.39	- .10
Aid to Permanently and Totally Disabled	464	449	- 15	66,990.00	64,408.00	- 2,582.00	144.38	143.45	- .93	4.64	4.44	- .20

HOSPITAL CARE

	Number Cases Receiving Payment			Amount of Payments			Average Payment Per Case			Average Payment Per Recipient		
	May	June	Difference	May	June	Difference	May	June	Difference	May	June	Difference
TOTAL	2,442	2,228	-214	$591,431.73	$530,990.08	$-60,441.65	$242.19	$238.33	$-3.86	$ --	$ --	$ --
Old Age Pensions	2,206	2,010	-196	522,408.88	471,708.67	-50,700.21	236.81	234.68	-2.13	4.75	4.28	- .47
Medical Assistance for the Aged 1/	236	218	- 18	69,022.85	59,281.41	- 9,741.44	292.47	271.93	-20.54	267.53	252.26	-15.27

PHYSICIANS' SERVICES

	Number Cases Receiving Payment			Amount of Payments			Average Payment Per Case		
	May	June	Difference	May	June	Difference	May	June	Difference
TOTAL	576	623	+ 47	$ 5,669.50	$ 5,178.00	$- 491.50	$ 9.84	$ 8.31	$-1.53
Old Age Pensions	548	600	+ 52	5,368.50	4,883.00	- 485.50	9.80	8.14	-1.66
Medical Assistance for the Aged 1/	28	23	- 5	301.00	295.00	- 6.00	10.75	12.83	+2.08

1/ Medical Assistance for the Aged program was initiated in Alabama by the State Department of Pensions and Security on February 1, 1962. In addition to payments for hospitalization for acute illness and/or major injury not to exceed 30 days for each fiscal year, the MAA program also provides for payments not to exceed $15.00 to the patient's physician in return for office visits made within 30 days following the patient's discharge from the hospital. Not more than $5.00 can be paid for each office visit. These visits must be related directly or indirectly to the hospitalization.

Prepared by: Bureau of Research and Statistics
July 15, 1964

PLAINTIFFS' EXHIBIT 16.

COMPARATIVE CASELOAD DATA FOR MONTHS OF DECEMBER 1966 AND JANUARY 1967 *

	Number of Cases Receiving Payment			Amount of Payments			Average Payment Per Case		
	December	January	Difference	December	January	Difference	December	January	Difference
TOTAL	149,321	149,383 1/	+ 62	$9,686,923.44 2/	$9,778,734.85 2/	$+91,811.41	$ 64.87	$ 65.46	$+ .59
Old Age Pensions	112,684 *	112,639 *	- 45	7,767,860.63	7,846,408.65	+78,548.02	68.93	69.66	+ .73
Aid to Blind	1,820 *	1,826 *	+ 6	131,199.00	131,973.70	+ 774.70	72.09	72.27	+ .18
Aid to Dependent Children	17,157	17,197	+ 40	897,906.68	905,862.14	+ 7,955.46	52.33 3/	52.68 3/	+ .35
Aid to Children in Foster Care--County	1,946	2,001	+ 55	82,496.00	80,890.38	- 1,605.62	42.39	40.42	- 1.97
Aid to Children in Foster Care--State	258	248	- 10	14,975.89	15,174.42	+ 198.53	58.05	61.19	+ 3.14
Aid to Permanently and Totally Disabled	15,105 *	15,098 *	- 7	771,230.59	777,513.37	+ 6,282.78	51.06	51.50	+ .44
Temporary Aid	84	84	0	1,111.00	1,107.43	- 3.57	13.23	13.18	- .05
Medical Assistance for the Aged	45	43	- 2	3,374.65	2,214.76	- 1,159.89	74.99	51.51	-23.48
Aid to Children Receiving Day Care 4/	486	514	+ 28	16,769.00	17,590.00	+ 821.00	34.43	34.22	- .21

	Applications Received During Month			Applications in Process of Investigations at End of Month		
	December	January	Difference	December	January	Difference
TOTAL	2,952	3,819	+867	5,450	5,804	+354
Old Age Pensions	1,351	1,747	+396	2,096	2,363	+267
Aid to Blind	30	38	+ 8	82	91	+ 9
Aid to Dependent Children	757	981	+224	1,648	1,665	+ 17
Aid to Children in Foster Care	93	136	+ 43	0	0	0
Aid to Permanently and Totally Disabled	559	728	+169	1,456	1,507	+ 51
Temporary Aid	34	44	+ 10	121	136	+ 15
Medical Assistance for the Aged	100	114	+ 14	34	42	+ 8
Aid to Children Receiving Day Care 4/	28	31	+ 3	13	0	- 13

Service Only Cases Under Care	
December 31, 1966 -----	7,394
January 31, 1967 -----	7,431

Prepared by:
Bureau of Research and Statistics
February 16, 1967

1/ In instances where a recipient receives more than one type of public assistance, he is counted only once under Total Number of Cases Receiving Payment. Average number of persons per case as of January is as follows: OAP, 1.00; AB, 1.00; ADC, 4.29; APTD, 1.00; TA, 1.00.
2/ Includes total obligations of $10,749.70 from local public funds in December and $11,661.61 in January.
3/ Total recipients numbered 71,001 in December with an average payment of $12.65 per recipient and 71,228 in January with an average payment of $12.72.
4/ Includes payments of $15,606.00 for 453 children in Day Care Centers and $1,984.00 for 62 children in Family Day Care Homes.
* Figures include data for vendor payments for medical care. Vendor payments for medical care including some payments from local public funds averaged $8.25 in December and $9.06 in January per old age pensions recipient. Vendor payments for medical care including some payments from local public funds averaged $2.20 per aid to blind recipient in December and $2.19 in January and $5.95 per aid to permanently and totally disabled recipient in December and $6.31 in January. (See attached statement for more detailed data on medical care.)

FILED

APR 25 1967

R. C. DOBSON, CLERK

By _____
Deputy Clerk

PLAINTIFFS' EXHIBIT 16.

NURSING HOME CARE

	Number Cases Receiving Payment			Amount of Payments			Average Payment Per Case			Average Payment Per Recipient		
	December	January	Difference	December	January	Difference	December	January	Difference	December	January	Difference
TOTAL	6,102	5,885	-217	$959,288.00	$1,039,700.00	$+80,412.00	$157.21	$176.67	$+ 19.46	$ - -	$ - -	$ - -
Old Age Pensions	5,499	5,327	-172	865,694.00	941,787.00	+76,093.00	157.43	176.80	+ 19.37	7.68	8.36	+ .68
Aid to Blind	27	22	- 5	3,998.00	3,962.00	- 36.00	148.07	180.09	+ 32.02	2.20	2.17	- .03
Aid to Permanently and Totally Disabled	576	536	- 40	89,596.00	93,951.00	+ 4,355.00	155.55	175.28	+ 19.73	5.93	6.22	+ .29

HOSPITAL CARE

	Number Cases Receiving Payment			Amount of Payments			Average Payment Per Case			Average Payment Per Recipient		
	December	January	Difference	December	January	Difference	December	January	Difference	December	January	Difference
TOTAL	1,612	1,881	+269	$64,531.85	$78,296.82	$+13,764.97	$ 40.03	$ 41.63	$+ 1.60	$ - -	$ - -	$ - -
Old Age Pensions	1,567	1,838	+271	61,157.20	76,082.06	+14,924.86	39.03	41.39	+ 2.36	.54	.68	+ .14
Medical Assistance for the Aged	45	43	- 2	3,374.65	2,214.76	- 1,159.89	74.99	51.51	- 23.48	74.99	51.51	-23.48

PHYSICIANS' SERVICES

	Number Cases Receiving Payment			Amount of Payments			Average Payment Per Case		
	December	January	Difference	December	January	Difference	December	January	Difference
TOTAL	455	537	+ 82	$2,344.00	$2,775.00	$+431.00	$ 5.15	$ 5.17	$+ .02
Old Age Pensions	455	537	+ 82	2,344.00	2,775.00	+431.00	5.15	5.17	+ .02
Medical Assistance for the Aged	0	0	0	.00	.00	.00	.00	.00	.00

Prepared by: Bureau of Research and Statistics
February 16, 1967

PLAINTIFFS' EXHIBIT 17.

Administrative
Letter No. 2232
January 26, 1967

State of Alabama.

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: *Public Assistance Data*

The attached tabulations have been prepared on the basis of data for public assistance recipients for December 1966.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

State of Alabama

Department of Pensions and Security
Montgomery

Public Assistance Cases for December 1966

Classified by Race

PLAINTIFFS' EXHIBIT 17.

TABLE 1. CASES RECEIVING PUBLIC ASSISTANCE FOR DECEMBER 1966 CLASSIFIED BY RACE

CATEGORY	TOTAL CASES	RACE						
		White		Negro		Other		
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Not Reported
TOTAL 2/	149,063	82,704	56.3%	64,062	43.6%	182	.1%	2,115
Old Age Pensions	112,684	66,251	59.5	44,929	40.4	92	.1	1,412
Aid to Blind	1,820	896	49.8	902	50.1	2	.1	20
Aid to Dependent Children	17,157	5,494	32.4	11,410	67.3	56	.3	197
Aid to Children in Foster Care--County	1,946	911	56.4	704	43.6	0	.0	331
Aid to Permanently and Totally Disabled	15,105	9,045	60.4	5,902	39.4	31	.2	127
Temporary Aid	84	34	40.5	49	58.3	1	1.2	0
Medical Assistance for the Aged	45	25	55.6	20	44.4	0	.0	0
Aid to Children Receiving Day Care	486	93	22.4	322	77.6	0	.0	71

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

2/ In instances where a recipient receives more than one type of public assistance, he is counted only once in the total.

TABLE 2. TOTAL CASES RECEIVING PUBLIC ASSISTANCE FOR DECEMBER 1966
CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE						
		White		Negro		Other		Not Reported
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	
TOTAL 2/	149,063	82,704	56.3%	64,062	43.6%	182	.1%	2,115
Autauga	1,117	420	37.6	697	62.4	0	.0	0
Baldwin	1,674	1,064	64.3	587	35.4	5	.3	18
Barbour	1,904	584	30.7	1,318	69.3	0	.0	2
Bibb	970	570	60.4	373	39.6	0	.0	27
Blount	1,578	1,521	96.8	50	3.2	0	.0	7
Bullock	1,029	152	14.8	873	85.2	0	.0	4
Butler	1,602	751	46.9	849	53.1	0	.0	2
Calhoun	3,685	2,452	66.6	1,230	33.4	1	3/	2
Chambers	1,794	794	44.8	978	55.1	1	.1	21
Cherokee	756	678	91.6	62	8.4	0	.0	16
Chilton	1,605	1,317	82.3	284	17.7	0	.0	4
Choctaw	1,389	476	34.3	913	65.7	0	.0	0
Clarke	1,301	477	37.0	813	63.0	0	.0	11
Clay	1,132	963	86.6	149	13.4	0	.0	20
Cleburne	647	609	94.3	37	5.7	0	.0	1
Coffee	1,826	1,257	69.2	560	30.8	0	.0	9
Colbert	2,107	1,396	66.9	690	33.1	0	.0	21
Conecuh	1,473	685	46.6	784	53.4	0	.0	4
Coosa	675	392	58.2	282	41.8	0	.0	1
Covington	2,515	1,991	79.9	500	20.1	0	.0	24
Crenshaw	1,443	896	62.4	541	37.6	0	.0	6
Cullman	2,663	2,635	99.1	24	.9	0	.0	4
Dale	1,380	901	65.5	475	34.5	0	.0	4
Dallas	3,302	490	15.0	2,773	85.0	0	.0	39
DeKalb	2,735	2,637	96.9	84	3.1	0	.0	14
Elmore	1,396	772	55.4	621	44.6	0	.0	3
Escambia	1,447	779	54.1	636	44.2	24	1.7	8
Etowah	3,876	3,109	80.3	761	19.7	0	.0	6
Fayette	1,144	936	82.5	198	17.5	0	.0	10
Franklin	1,724	1,606	93.2	118	6.8	0	.0	0
Geneva	1,487	1,185	80.7	283	19.3	0	.0	19
Greene	1,018	87	8.7	918	91.3	0	.0	13
Hale	1,346	238	17.8	1,100	82.2	0	.0	8
Henry	1,023	490	48.2	527	51.8	0	.0	6
Houston	2,655	1,541	59.1	1,068	40.9	0	.0	46
Jackson	2,073	1,913	92.4	158	7.6	0	.0	2
Jefferson	18,036	6,890	40.4	10,181	59.6	2	3/	963
Lamar	1,282	1,079	84.3	201	15.7	0	.0	2
Lauderdale	2,700	2,091	77.8	597	22.2	0	.0	12
Lawrence	1,872	1,203	67.2	587	32.8	0	.0	82
Lee	1,845	601	33.0	1,222	67.0	0	.0	22
Limestone	2,046	1,403	69.4	619	30.6	0	.0	24
Lowndes	974	78	8.3	862	91.7	0	.0	34
Macon	1,278	124	9.8	1,140	90.2	0	.0	14
Madison	3,612	2,137	61.2	1,354	38.8	0	.0	121
Marengo	1,671	260	15.6	1,410	84.4	0	.0	1
Marion	1,920	1,853	96.8	60	3.1	2	.1	5
Marshall	2,640	2,441	97.0	76	3.0	0	.0	123
Mobile	8,537	3,290	38.6	5,182	60.7	61	.7	4
Monroe	1,341	487	36.3	852	63.6	1	.1	1
Montgomery	4,692	1,423	30.4	3,252	69.6	0	.0	17
Morgan	2,993	2,241	76.5	689	23.5	0	.0	63
Perry	1,387	283	20.6	1,094	79.4	0	.0	10
Pickens	2,035	837	41.2	1,194	58.8	0	.0	4
Pike	1,407	584	41.5	822	58.5	0	.0	1
Randolph	1,346	950	72.0	370	28.0	0	.0	26
Russell	1,888	721	38.2	1,165	61.8	0	.0	2
Saint Clair	1,283	1,004	80.1	250	19.9	0	.0	29
Shelby	1,612	1,117	69.3	494	30.7	0	.0	1
Sumter	1,474	144	9.8	1,318	90.2	0	.0	12
Talladega	3,496	1,922	56.8	1,462	43.2	0	.0	112
Tallapoosa	2,383	1,434	60.2	947	39.8	0	.0	2
Tuscaloosa	4,747	2,298	48.5	2,438	51.5	0	.0	11
Walker	3,885	3,340	86.1	537	13.9	0	.0	8
Washington	903	450	49.9	367	40.7	85	9.4	1
Wilcox	1,169	142	12.4	1,006	87.6	0	.0	21
Winston	1,118	1,113	100.0	0	.0	0	.0	5

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

2/ In instances where a recipient receives more than one type of public assistance, he is counted only once in the total.

3/ Less than .05 percent.

TABLE 3. OLD AGE PENSION CASES FOR DECEMBER 1966 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE						
		White		Negro		Other		Not Reported
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	
TOTAL	112,684	66,251	59.5%	44,929	40.4%	92	.1%	1,412
Autauga	848	351	41.4	497	58.6	0	.0	0
Baldwin	1,314	893	68.7	404	31.1	3	.2	14
Barbour	1,320	472	35.8	846	64.2	0	.0	2
Bibb	703	445	64.1	249	35.9	0	.0	9
Blount	1,312	1,263	96.7	43	3.3	0	.0	6
Bullock	853	134	15.8	716	84.2	0	.0	3
Butler	1,297	644	49.7	651	50.3	0	.0	2
Calhoun	2,490	1,861	74.8	626	25.2	1	2/	2
Chambers	1,439	703	49.4	718	50.5	1	.1	17
Cherokee	602	554	93.3	40	6.7	0	.0	8
Chilton	1,333	1,103	82.9	228	17.1	0	.0	2
Choctaw	949	347	36.6	602	63.4	0	.0	0
Clarke	1,087	434	40.2	646	59.8	0	.0	7
Clay	933	810	88.2	108	11.8	0	.0	15
Cleburne	512	486	95.1	25	4.9	0	.0	1
Coffee	1,390	1,008	72.8	376	27.2	0	.0	6
Colbert	1,509	1,064	71.2	430	28.8	0	.0	15
Conecuh	1,165	575	49.5	586	50.5	0	.0	4
Coosa	522	329	63.0	193	37.0	0	.0	0
Covington	2,001	1,630	82.4	348	17.6	0	.0	23
Crenshaw	1,098	719	65.8	374	34.2	0	.0	5
Cullman	2,238	2,223	99.4	13	.6	0	.0	2
Dale	1,037	705	68.1	330	31.9	0	.0	2
Dallas	2,569	421	16.6	2,122	83.4	0	.0	26
DeKalb	2,105	2,054	98.0	42	2.0	0	.0	9
Elmore	1,169	679	58.3	486	41.7	0	.0	2
Escambia	1,236	682	55.4	532	43.3	16	1.3	6
Etowah	2,919	2,450	84.0	467	16.0	0	.0	2
Fayette	952	799	84.7	144	15.3	0	.0	9
Franklin	1,334	1,256	94.2	78	5.8	0	.0	0
Geneva	1,171	967	83.2	195	16.8	0	.0	9
Greene	889	82	9.3	804	90.7	0	.0	3
Hale	1,097	212	19.4	880	80.6	0	.0	5
Henry	744	394	53.4	344	46.6	0	.0	6
Houston	2,009	1,300	65.0	700	35.0	0	.0	9
Jackson	1,525	1,412	92.7	112	7.3	0	.0	1
Jefferson	13,668	5,696	44.2	7,185	55.8	2	2/	785
Lamar	989	853	86.3	135	13.7	0	.0	1
Lauderdale	2,102	1,645	78.5	450	21.5	0	.0	7
Lawrence	1,279	870	71.4	348	28.6	0	.0	61
Lee	1,417	516	36.5	896	63.5	0	.0	5
Limestone	1,496	1,047	70.9	430	29.1	0	.0	19
Lowndes	753	68	9.3	665	90.7	0	.0	20
Macon	1,035	112	10.9	911	89.1	0	.0	12
Madison	2,601	1,682	65.4	891	34.6	0	.0	28
Marengo	1,354	239	17.7	1,114	82.3	0	.0	1
Marion	1,499	1,453	97.2	41	2.7	1	.1	4
Marshall	2,048	1,946	97.4	51	2.6	0	.0	51
Mobile	5,522	2,587	46.9	2,902	52.6	29	.5	4
Monroe	1,147	439	38.3	707	61.6	1	.1	0
Montgomery	3,761	1,196	31.9	2,554	68.1	0	.0	11
Morgan	2,143	1,708	81.1	399	18.9	0	.0	36
Perry	1,094	241	22.2	845	77.8	0	.0	8
Pickens	1,388	667	48.1	719	51.9	0	.0	2
Pike	1,183	521	44.0	662	56.0	0	.0	0
Randolph	1,141	827	73.4	300	26.6	0	.0	14
Russell	1,535	604	39.4	929	60.6	0	.0	2
Saint Clair	1,014	806	81.0	189	19.0	0	.0	19
Shelby	1,226	887	72.4	338	27.6	0	.0	1
Sumter	1,205	125	10.5	1,069	89.5	0	.0	11
Talladega	2,403	1,462	62.2	890	37.8	0	.0	51
Tallapoosa	1,694	1,152	68.0	541	32.0	0	.0	1
Tuscaloosa	3,181	1,779	56.0	1,398	44.0	0	.0	4
Walker	2,692	2,352	87.5	336	12.5	0	.0	4
Washington	691	365	52.8	288	41.7	38	5.5	0
Wilcox	937	130	14.1	791	85.9	0	.0	16
Winston	817	815	100.0	0	.0	0	.0	2

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

2/ Less than .05 percent.

TABLE 4. AID TO BLIND CASES FOR DECEMBER 1966 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE			
		White	Negro	Other	Not Reported
TOTAL 1/	1,820	896	902	2	20
Autauga	15	6	9	0	0
Baldwin	25	15	9	0	1
Barbour	17	3	14	0	0
Bibb	7	3	4	0	0
Blount	12	12	0	0	0
Bullock	10	1	9	0	0
Butler	13	8	5	0	0
Calhoun	36	25	11	0	0
Chambers	25	8	16	0	1
Cherokee	5	4	0	0	1
Chilton	20	16	4	0	0
Choctaw	26	10	16	0	0
Clarke	10	2	8	0	0
Clay	13	12	0	0	1
Cleburne	4	4	0	0	0
Coffee	36	27	8	0	1
Colbert	26	16	10	0	0
Conecuh	14	7	7	0	0
Coosa	7	3	4	0	0
Covington	41	32	9	0	0
Crenshaw	16	10	6	0	0
Cullman	16	14	2	0	0
Dale	28	16	12	0	0
Dallas	33	1	31	0	1
DeKalb	22	22	0	0	0
Elmore	20	11	9	0	0
Escambia	17	5	12	0	0
Etowah	40	24	15	0	1
Fayette	24	13	11	0	0
Franklin	14	12	2	0	0
Geneva	29	22	7	0	0
Greene	8	0	8	0	0
Hale	12	1	11	0	0
Henry	13	5	8	0	0
Houston	39	22	17	0	0
Jackson	24	23	1	0	0
Jefferson	256	71	184	0	1
Lamar	21	15	6	0	0
Lauderdale	31	24	7	0	0
Lawrence	15	10	2	0	3
Lee	25	9	16	0	0
Limestone	34	24	10	0	0
Lowndes	5	1	4	0	0
Macon	8	1	7	0	0
Madison	37	15	21	0	1
Marengo	13	1	12	0	0
Marion	16	16	0	0	0
Marshall	25	24	0	0	1
Mobile	110	35	74	1	0
Monroe	8	1	7	0	0
Montgomery	78	16	62	0	0
Morgan	18	12	5	0	1
Perry	17	1	16	0	0
Pickens	21	6	15	0	0
Pike	14	6	8	0	0
Randolph	16	15	1	0	0
Russell	20	6	14	0	0
Saint Clair	15	12	3	0	0
Shelby	22	15	7	0	0
Sumter	19	1	18	0	0
Talladega	112	66	42	0	4
Tallapoosa	31	19	12	0	0
Tuscaloosa	56	24	31	0	1
Walker	31	27	4	0	0
Washington	5	1	3	1	0
Wilcox	16	0	16	0	0
Winston	8	7	0	0	1

1/ Percentage distribution of total Aid to Blind cases by race is as follows: White, 49.8%; Negro, 50.1%; Other, .1%.

TABLE 5. FAMILIES RECEIVING AID TO DEPENDENT CHILDREN FOR DECEMBER 1966
CLASSIFIED BY RACE

COUNTY	TOTAL FAMILIES	RACE						
		White		Negro		Other		Not Reported
		Number	Percent of Total Families 1/	Number	Percent of Total Families 1/	Number	Percent of Total Families 1/	
TOTAL	17,157	5,494	32.4%	11,410	67.3%	56	.3%	197
Autauga	142	18	12.7	124	87.3	0	.0	0
Baldwin	183	60	33.0	120	65.9	2	1.1	1
Barbour	313	26	8.3	287	91.7	0	.0	0
Bibb	120	36	30.3	83	69.7	0	.0	1
Blount	95	91	96.8	3	3.2	0	.0	1
Bullock	76	4	5.3	71	94.7	0	.0	1
Butler	144	30	20.8	114	79.2	0	.0	0
Calhoun	727	267	36.7	460	63.3	0	.0	0
Chambers	143	12	8.5	129	91.5	0	.0	2
Cherokee	60	41	70.7	17	29.3	0	.0	2
Chilton	95	66	70.2	28	29.8	0	.0	1
Choctaw	222	42	18.9	180	81.1	0	.0	0
Clarke	108	14	13.1	93	86.9	0	.0	1
Clay	58	30	54.5	25	45.5	0	.0	3
Cleburne	59	49	83.1	10	16.9	0	.0	0
Coffee	188	68	36.6	118	63.4	0	.0	2
Colbert	312	132	43.1	174	56.9	0	.0	6
Conecuh	138	31	22.5	107	77.5	0	.0	0
Coosa	62	14	22.6	48	77.4	0	.0	0
Covington	173	93	54.1	79	45.9	0	.0	1
Crenshaw	149	51	34.2	98	65.8	0	.0	0
Cullman	166	161	97.6	4	2.4	0	.0	1
Dale	137	53	39.0	83	61.0	0	.0	1
Dallas	371	10	2.7	354	97.3	0	.0	7
DeKalb	276	240	87.3	35	12.7	0	.0	1
Elmore	75	28	37.3	47	62.7	0	.0	0
Escambia	76	21	28.4	46	62.2	7	9.4	2
Etowah	453	264	58.5	187	41.5	0	.0	2
Fayette	66	44	66.7	22	33.3	0	.0	0
Franklin	153	132	86.3	21	13.7	0	.0	0
Geneva	113	55	51.9	51	48.1	0	.0	7
Greene	46	0	.0	37	100.0	0	.0	9
Hale	154	8	5.3	143	94.7	0	.0	3
Henry	143	35	24.5	108	75.5	0	.0	0
Houston	299	62	21.4	228	78.6	0	.0	9
Jackson	220	189	86.3	30	13.7	0	.0	1
Jefferson	2,162	350	16.4	1,788	83.6	0	.0	24
Lamar	88	57	64.8	31	35.2	0	.0	0
Lauderdale	245	170	70.2	72	29.8	0	.0	3
Lawrence	306	136	45.2	165	54.8	0	.0	5
Lee	194	19	10.2	167	89.8	0	.0	8
Limestone	250	136	55.3	110	44.7	0	.0	4
Lowndes	133	0	.0	124	100.0	0	.0	9
Macon	151	3	2.0	148	98.0	0	.0	0
Madison	491	183	37.5	305	62.5	0	.0	3
Marengo	165	5	3.0	160	97.0	0	.0	0
Marion	133	122	91.7	10	7.5	1	.8	0
Marshall	213	191	91.4	18	8.6	0	.0	4
Mobile	1,798	226	12.6	1,549	86.1	23	1.3	0
Monroe	88	15	17.2	72	82.8	0	.0	1
Montgomery	378	58	15.4	318	84.6	0	.0	2
Morgan	353	189	55.9	149	44.1	0	.0	15
Perry	173	8	4.7	164	95.3	0	.0	1
Pickens	394	51	13.0	342	87.0	0	.0	1
Pike	65	12	18.5	53	81.5	0	.0	0
Randolph	46	14	31.1	31	68.9	0	.0	1
Russell	120	18	15.0	102	85.0	0	.0	0
Saint Clair	77	43	63.2	25	36.8	0	.0	9
Shelby	172	80	46.5	92	53.5	0	.0	0
Sumter	131	5	3.8	125	96.2	0	.0	1
Talladega	526	140	28.5	351	71.5	0	.0	35
Tallapoosa	262	53	20.2	209	79.8	0	.0	0
Tuscaloosa	897	205	22.9	690	77.1	0	.0	2
Walker	545	411	75.7	132	24.3	0	.0	2
Washington	86	26	30.2	37	43.0	23	26.8	0
Wilcox	113	4	3.6	107	96.4	0	.0	2
Winston	87	87	100.0	0	.0	0	.0	0

1/ Percentage distribution computed on basis of total excluding families for whom race was not reported.

TABLE 6. CHILDREN RECEIVING AID TO CHILDREN IN FOSTER CARE FOR DECEMBER 1966 CLASSIFIED BY RACE

COUNTY	TOTAL CHILDREN	RACE		
		White	Negro	Not Reported
TOTAL 1/	1,946	911	704	331
Autauga	5	1	4	0
Baldwin	13	12	1	0
Barbour	21	6	15	0
Bibb	18	4	0	14
Blount	17	17	0	0
Bullock	3	1	2	0
Butler	14	3	11	0
Calhoun	89	59	30	0
Chambers	12	7	4	1
Cherokee	11	9	0	2
Chilton	1	1	0	0
Choctaw	19	6	13	0
Clarke	7	0	6	1
Clay	2	2	0	0
Cleburne	4	3	1	0
Coffee	1	1	0	0
Colbert	17	13	4	0
Conecuh	16	0	16	0
Coosa	8	4	3	1
Covington	34	23	11	0
Crenshaw	21	12	9	0
Cullman	12	11	0	1
Dale	10	5	5	0
Dallas	25	9	16	0
DeKalb	25	24	1	0
Elmore	28	6	22	0
Escambia	16	6	10	0
Etowah	31	27	4	0
Fayette	0	0	0	0
Franklin	16	12	4	0
Geneva	11	6	3	2
Greene	0	0	0	0
Hale	3	1	2	0
Henry	1	0	1	0
Houston	15	0	4	11
Jackson	47	45	2	0
Jefferson	390	130	138	122
Lamar	1	1	0	0
Lauderdale	35	32	3	0
Lawrence	24	15	7	2
Lee	16	3	5	8
Limestone	8	3	5	0
Lowndes	11	0	7	4
Macon	14	1	13	0
Madison	85	4	0	81
Marengo	13	0	13	0
Marion	2	2	0	0
Marshall	66	17	0	49
Mobile	242	118	124	0
Monroe	1	0	1	0
Montgomery	53	26	25	2
Morgan	98	71	25	2
Perry	6	3	3	0
Pickens	15	6	9	0
Pike	36	0	35	1
Randolph	11	1	0	10
Russell	6	3	3	0
Saint Clair	34	26	8	0
Shelby	12	4	8	0
Sumter	7	0	7	0
Talladega	35	12	10	13
Tallapoosa	11	3	8	0
Tuscaloosa	85	46	37	2
Walker	33	29	2	2
Washington	10	6	4	0
Wilcox	0	0	0	0
Winston	13	13	0	0

1/ Percentage distribution of total number of children receiving Aid to Children in Foster Care by race is as follows: White, 56.4%; Negro, 43.6%.

TABLE 7. AID TO PERMANENTLY AND TOTALLY DISABLED CASES FOR DECEMBER 1966 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE						
		White		Negro		Other		Not Reported
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	
TOTAL	15,105	9,045	60.4%	5,902	39.4%	31	.2%	127
Autauga	104	43	41.3	61	58.7	0	.0	0
Baldwin	137	82	60.7	53	39.3	0	.0	2
Barbour	225	77	34.2	148	65.8	0	.0	0
Bibb	121	81	68.6	37	31.4	0	.0	3
Blount	140	137	97.9	3	2.1	0	.0	0
Bullock	87	12	13.8	75	86.2	0	.0	0
Butler	134	66	49.3	68	50.7	0	.0	0
Calhoun	329	228	69.3	101	30.7	0	.0	0
Chambers	171	63	36.8	108	63.2	0	.0	0
Cherokee	77	69	93.2	5	6.8	0	.0	3
Chilton	156	131	84.5	24	15.5	0	.0	1
Choctaw	172	71	41.3	101	58.7	0	.0	0
Clarke	89	27	31.0	60	69.0	0	.0	2
Clay	126	109	87.2	16	12.8	0	.0	1
Cleburne	68	67	98.5	1	1.5	0	.0	0
Coffee	200	149	74.5	51	25.5	0	.0	0
Colbert	242	171	70.7	71	29.3	0	.0	0
Conecuh	140	72	51.4	68	48.6	0	.0	0
Coosa	74	41	55.4	33	44.6	0	.0	0
Covington	261	208	79.7	53	20.3	0	.0	0
Crenshaw	159	104	65.8	54	34.2	0	.0	1
Cullman	231	226	97.8	5	2.2	0	.0	0
Dale	168	122	73.1	45	26.9	0	.0	1
Dallas	299	49	16.7	245	83.3	0	.0	5
DeKalb	307	297	98.0	6	2.0	0	.0	4
Elmore	102	48	47.5	53	52.5	0	.0	1
Escambia	102	65	63.7	36	35.3	1	1.0	0
Etowah	430	341	79.5	88	20.5	0	.0	1
Fayette	102	80	79.2	21	20.8	0	.0	1
Franklin	205	192	93.7	13	6.3	0	.0	0
Geneva	163	135	83.3	27	16.7	0	.0	1
Greene	74	5	6.8	68	93.2	0	.0	1
Hale	76	16	21.1	60	78.9	0	.0	0
Henry	122	56	45.9	66	54.1	0	.0	0
Houston	271	150	56.4	116	43.6	0	.0	5
Jackson	255	243	95.3	12	4.7	0	.0	0
Jefferson	1,519	634	42.2	867	57.8	0	.0	18
Lamar	183	153	84.1	29	15.9	0	.0	1
Lauderdale	285	219	77.4	64	22.6	0	.0	2
Lawrence	244	170	73.0	63	27.0	0	.0	11
Lee	186	54	29.0	132	71.0	0	.0	0
Limestone	254	192	75.9	61	24.1	0	.0	1
Lowndes	72	9	12.7	62	87.3	0	.0	1
Macon	68	6	9.1	60	90.9	0	.0	2
Madison	394	250	64.8	136	35.2	0	.0	8
Marengo	126	15	11.9	111	88.1	0	.0	0
Marion	269	259	96.6	9	3.4	0	.0	1
Marshall	288	263	97.4	7	2.6	0	.0	18
Mobile	822	300	36.5	515	62.7	7	.8	0
Monroe	97	32	33.0	65	67.0	0	.0	0
Montgomery	410	121	29.7	287	70.3	0	.0	2
Morgan	337	259	78.7	70	21.3	0	.0	8
Perry	97	30	31.2	66	68.8	0	.0	1
Pickens	217	107	49.5	109	50.5	0	.0	1
Pike	95	45	47.4	50	52.6	0	.0	0
Randolph	127	88	69.8	38	30.2	0	.0	1
Russell	206	90	43.7	116	56.3	0	.0	0
Saint Clair	143	117	82.4	25	17.6	0	.0	1
Shelby	173	131	75.7	42	24.3	0	.0	0
Sumter	112	13	11.6	99	88.4	0	.0	0
Talladega	418	240	58.7	169	41.3	0	.0	9
Tallapoosa	344	206	59.9	138	40.1	0	.0	0
Tuscaloosa	513	241	47.2	270	52.8	0	.0	2
Walker	584	521	89.2	63	10.8	0	.0	0
Washington	110	51	46.8	35	32.1	23	21.1	1
Wilcox	103	8	8.0	92	92.0	0	.0	3
Winston	190	188	100.0	0	.0	0	.0	2

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

TABLE 8. TEMPORARY AID CASES FOR DECEMBER 1966 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE		
		White	Negro	Other
TOTAL 1/	84	34	49	1
Autauga	1	1	0	0
Baldwin	1	1	0	0
Barbour	1	0	1	0
Bibb	0	0	0	0
Blount	0	0	0	0
Bullock	0	0	0	0
Butler	0	0	0	0
Calhoun	0	0	0	0
Chambers	0	0	0	0
Cherokee	1	1	0	0
Chilton	0	0	0	0
Choctaw	0	0	0	0
Clarke	0	0	0	0
Clay	0	0	0	0
Cleburne	0	0	0	0
Coffee	4	3	1	0
Colbert	0	0	0	0
Conecuh	0	0	0	0
Coosa	1	0	1	0
Covington	2	2	0	0
Crenshaw	0	0	0	0
Cullman	0	0	0	0
Dale	0	0	0	0
Dallas	2	0	2	0
DeKalb	0	0	0	0
Elmore	3	0	3	0
Escambia	0	0	0	0
Etowah	0	0	0	0
Fayette	0	0	0	0
Franklin	0	0	0	0
Geneva	0	0	0	0
Greene	1	0	1	0
Hale	4	0	4	0
Henry	0	0	0	0
Houston	0	0	0	0
Jackson	1	1	0	0
Jefferson	7	1	6	0
Lamar	0	0	0	0
Lauderdale	2	1	1	0
Lawrence	3	2	1	0
Lee	1	0	1	0
Limestone	3	1	2	0
Lowndes	0	0	0	0
Macon	1	0	1	0
Madison	4	3	1	0
Marengo	0	0	0	0
Marion	0	0	0	0
Marshall	0	0	0	0
Mobile	19	5	13	1
Monroe	0	0	0	0
Montgomery	4	0	4	0
Morgan	1	0	1	0
Perry	0	0	0	0
Pickens	0	0	0	0
Pike	0	0	0	0
Randolph	4	4	0	0
Russell	0	0	0	0
Saint Clair	0	0	0	0
Shelby	1	0	1	0
Sumter	0	0	0	0
Talladega	1	1	0	0
Tallapoosa	2	1	1	0
Tuscaloosa	6	3	3	0
Walker	0	0	0	0
Washington	0	0	0	0
Wilcox	0	0	0	0
Winston	3	3	0	0

1/ Percentage distribution of total Temporary Aid cases by race is as follows: White, 40.5%; Negro, 58.3%; Other, 1.2%.

TABLE 9. MEDICAL ASSISTANCE FOR THE AGED CASES FOR DECEMBER 1966 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE	
		White	Negro
TOTAL 1/	45	25	20
Autauga	2	0	2
Baldwin	1	1	0
Barbour	1	0	1
Bibb	1	1	0
Blount	2	1	1
Bullock	0	0	0
Butler	0	0	0
Calhoun	4	2	2
Chambers	1	1	0
Cherokee	0	0	0
Chilton	0	0	0
Choctaw	1	0	1
Clarke	0	0	0
Clay	0	0	0
Cleburne	0	0	0
Coffee	1	1	0
Colbert	1	0	1
Conecuh	0	0	0
Coosa	1	1	0
Covington	1	1	0
Crenshaw	0	0	0
Cullman	0	0	0
Dale	0	0	0
Dallas	0	0	0
DeKalb	0	0	0
Elmore	1	0	1
Escambia	0	0	0
Etowah	3	3	0
Fayette	0	0	0
Franklin	0	0	0
Geneva	0	0	0
Greene	0	0	0
Hale	0	0	0
Henry	0	0	0
Houston	4	4	0
Jackson	1	0	1
Jefferson	6	3	3
Lamar	0	0	0
Lauderdale	0	0	0
Lawrence	1	0	1
Lee	0	0	0
Limestone	1	0	1
Lowndes	0	0	0
Macon	1	1	0
Madison	0	0	0
Marengo	0	0	0
Marion	1	1	0
Marshall	0	0	0
Mobile	3	1	2
Monroe	0	0	0
Montgomery	2	0	2
Morgan	0	0	0
Perry	0	0	0
Pickens	0	0	0
Pike	0	0	0
Randolph	1	1	0
Russell	1	0	1
Saint Clair	0	0	0
Shelby	0	0	0
Sumter	0	0	0
Talladega	1	1	0
Tallapoosa	0	0	0
Tuscaloosa	0	0	0
Walker	0	0	0
Washington	1	1	0
Wilcox	0	0	0
Winston	0	0	0

1/ Percentage distribution of total Medical Assistance for the Aged cases by race is as follows: White, 55.6%; Negro, 44.4%.

PLAINTIFFS' EXHIBIT 17.

PLAINTIFFS' EXHIBIT 18.

State of Alabama

Department of Pensions and Security

TOTAL POPULATION CLASSIFIED BY RACE

1960 CENSUS

	Total Population	White Total	White Percent	Negro Total	Negro Percent	Other Races Total	Other Races Percent
Alabama	3,266,740	2,283,609	69.9%	980,271	30.0%	2,860	.1%
Dallas County	56,667	23,952	42.3	32,687	57.7	28	..

Source: Bureau of Census, 1960

FAMILIES RECEIVING AID TO DEPENDENT CHILDREN

CLASSIFIED BY RACE

	Total Families	Race White Number	White Percent of Total Families[1]	Negro Number	Negro Percent of Total Families[1]	Other Number	Other Percent of Total Families[1]	Not Reported
Alabama*								
June 1964	22,373	7,460	33.7%	14,593	66.0%	60	.3%	260
June 1965	18,104	6,350	35.4%	11,530	64.3%	59	.3%	165
June 1966	17,257	5,712	33.6%	11,233	66.1%	54	.3%	258
Dallas County**								
June 1964	616	13	2.1%	597	97.9%	0	.0	6
June 1965	397	8	2.1%	378	97.9%	0	.0	11
June 1966	375	6	1.6%	358	98.4%	0	.0	11

* 16,930 Families representing 70,117 recipients received Aid to Dependent Children in Alabama for October 1966.

** 372 Families representing 1,628 recipients received Aid to Dependent Children in Dallas County for October 1966.

Number of Cases Closed Because of Substitute Father-Policy for Period July 1964-June 1965

State 2,894

Dallas County 157

Prepared by: Bureau of Research and Statistics

December 8, 1966

PLAINTIFFS' EXHIBIT 19.

Administrative
Letter No. 1928

July 31, 1964

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: *Public Assistance Data*

The attached tabulations have been prepared on the basis of data for public assistance recipients for June 1964.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

State of Alabama

Department of Pensions and Security
Montgomery

Public Assistance Cases for June 1964

Classified by Race

TABLE 1. CASES RECEIVING PUBLIC ASSISTANCE FOR JUNE 1964 CLASSIFIED BY RACE

CATEGORY	TOTAL CASES	RACE						
		White		Negro		Other		
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Not Reported
TOTAL 2/	151,056	83,888	56.0%	65,817	43.9%	172	.1%	1,179
Old Age Pensions	110,275	65,722	59.9	43,917	40.0	84	.1	552
Aid to Blind	1,761	891	51.0	851	48.8	3	.2	16
Aid to Dependent Children	22,373	7,460	33.7	14,593	66.0	60	.3	260
Aid to Children in Foster Care--County	1,704	860	57.8	628	42.2	0	.0	216
Aid to Permanently and Totally Disabled	14,522	8,730	60.6	5,641	39.2	25	.2	126
Temporary Aid	82	30	36.6	52	63.4	0	.0	0
Medical Assistance for the Aged	235	130	55.3	105	44.7	0	.0	0
Aid to Children Receiving Day Care	226	97	46.9	110	53.1	0	.0	19

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

2/ In instances where a recipient receives more than one type of public assistance, he is counted only once in the total.

Table 2. TOTAL CASES RECEIVING PUBLIC ASSISTANCE FOR JUNE 1964
CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE						
		White		Negro		Other		
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Not Reported
TOTAL 2/	151,056	83,888	56.0%	65,817	43.9%	172	.1%	1,179
Autauga	1,191	427	35.9	764	64.1	0	.0	0
Baldwin	1,752	1,096	62.8	641	36.8	7	.4	8
Barbour	2,056	596	29.0	1,458	71.0	0	.0	2
Bibb	1,038	594	57.5	439	42.5	0	.0	5
Blount	1,629	1,573	97.0	48	3.0	0	.0	8
Bullock	1,078	160	14.9	917	85.1	0	.0	1
Butler	1,741	799	46.0	939	54.0	0	.0	3
Calhoun	3,756	2,479	66.0	1,276	34.0	0	.0	1
Chambers	1,886	797	42.4	1,081	57.6	0	.0	8
Cherokee	795	692	88.9	86	11.1	0	.0	17
Chilton	1,674	1,357	81.6	306	18.4	0	.0	11
Choctaw	1,367	484	35.6	876	64.4	0	.0	7
Clarke	1,534	538	35.2	987	64.7	1	.1	8
Clay	1,183	1,013	86.8	154	13.2	0	.0	16
Cleburne	642	599	93.3	43	6.7	0	.0	0
Coffee	1,857	1,315	71.0	538	29.0	0	.0	4
Colbert	2,091	1,373	66.2	702	33.8	0	.0	16
Conecuh	1,538	750	48.9	785	51.1	0	.0	3
Coosa	726	416	59.0	289	41.0	0	.0	21
Covington	2,557	2,019	79.0	538	21.0	0	.0	0
Crenshaw	1,476	899	61.1	573	38.9	0	.0	4
Cullman	2,706	2,673	99.2	22	.8	0	.0	11
Dale	1,414	915	65.0	492	35.0	0	.0	7
Dallas	3,606	524	14.6	3,061	85.4	0	.0	21
DeKalb	2,755	2,634	97.1	79	2.9	0	.0	42
Elmore	1,417	809	57.1	607	42.9	0	.0	1
Escambia	1,551	822	54.0	673	44.3	26	1.7	30
Etowah	3,896	3,102	79.8	787	20.2	0	.0	7
Fayette	1,211	996	82.4	213	17.6	0	.0	2
Franklin	1,704	1,585	93.2	115	6.8	0	.0	4
Geneva	1,513	1,217	81.3	280	18.7	0	.0	16
Greene	1,140	94	8.3	1,045	91.7	0	.0	1
Hale	1,378	219	15.9	1,158	84.1	0	.0	1
Henry	1,059	498	48.1	537	51.9	0	.0	24
Houston	2,639	1,555	59.2	1,072	40.8	0	.0	12
Jackson	2,209	2,002	92.1	172	7.9	0	.0	35
Jefferson	17,806	7,171	40.5	10,541	59.5	3	3/	91
Lamar	1,320	1,086	82.9	224	17.1	0	.0	10
Lauderdale	2,645	2,075	78.8	558	21.2	0	.0	12
Lawrence	2,012	1,346	67.0	663	33.0	0	.0	3
Lee	1,773	579	32.9	1,183	67.1	0	.0	11
Limestone	2,043	1,352	66.9	670	33.1	0	.0	21
Lowndes	1,110	89	8.9	913	91.1	0	.0	108
Macon	1,081	127	11.8	952	88.2	0	.0	2
Madison	3,673	2,058	58.0	1,489	42.0	0	.0	126
Marengo	1,784	284	15.9	1,499	84.1	0	.0	1
Marion	1,963	1,858	95.9	77	4.0	2	.1	26
Marshall	2,583	2,342	96.3	89	3.7	1	3/	151
Mobile	7,984	3,127	39.2	4,803	60.2	53	.6	1
Monroe	1,279	477	37.3	799	62.6	1	.1	2
Montgomery	4,447	1,382	31.1	3,055	68.9	0	.0	10
Morgan	3,093	2,272	75.7	729	24.3	0	.0	92
Perry	1,284	250	19.7	1,022	80.3	0	.0	12
Pickens	2,026	825	40.7	1,201	59.3	0	.0	0
Pike	1,346	577	42.9	769	57.1	0	.0	0
Randolph	1,355	945	70.1	403	29.9	0	.0	7
Russell	1,935	712	36.8	1,223	63.2	0	.0	0
St. Clair	1,317	1,048	79.9	263	20.1	0	.0	6
Shelby	1,624	1,124	69.2	500	30.8	0	.0	0
Sumter	1,563	152	9.7	1,409	90.3	0	.0	2
Talladega	3,608	2,010	56.2	1,567	43.8	0	.0	31
Tallapoosa	2,445	1,511	62.1	923	37.9	0	.0	11
Tuscaloosa	4,848	2,314	48.2	2,488	51.8	0	.0	46
Walker	4,064	3,450	85.1	603	14.9	0	.0	11
Washington	915	462	50.6	373	40.9	78	8.5	2
Wilcox	1,250	154	12.6	1,071	87.4	0	.0	25
Winston	1,115	1,108	99.6	5	.4	0	.0	2

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

2/ In instances where a recipient receives more than one type of public assistance he is counted only once in the total.

3/ Less than .05 percent

Table 3. OLD AGE PENSION CASES FOR JUNE 1964 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE						
		White		Negro		Other		
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Not Reported
TOTAL	110,275	65,722	59.9%	43,917	40.0%	84	.1%	552
Autauga	869	356	41.0	513	59.0	0	.0	0
Baldwin	1,321	889	67.5	423	32.1	5	.4	4
Barbour	1,287	459	35.7	827	64.3	0	.0	1
Bibb	700	443	63.4	256	36.6	0	.0	1
Blount	1,297	1,257	97.1	38	2.9	0	.0	2
Bullock	859	138	16.1	721	83.9	0	.0	0
Butler	1,328	677	51.0	650	49.0	0	.0	1
Calhoun	2,446	1,839	75.2	606	24.8	0	.0	1
Chambers	1,381	668	48.5	709	51.5	0	.0	4
Cherokee	629	570	91.6	52	8.4	0	.0	7
Chilton	1,366	1,133	83.1	230	16.9	0	.0	3
Choctaw	923	356	38.7	564	61.3	0	.0	3
Clarke	1,202	479	39.9	721	60.0	1	.1	1
Clay	951	840	89.1	103	10.9	0	.0	8
Cleburne	486	458	94.2	28	5.8	0	.0	0
Coffee	1,316	989	75.3	325	24.7	0	.0	2
Colbert	1,478	1,046	71.3	421	28.7	0	.0	11
Conecuh	1,209	633	52.4	574	47.6	0	.0	2
Coosa	523	339	66.6	170	33.4	0	.0	14
Covington	1,944	1,603	82.5	341	17.5	0	.0	0
Crenshaw	1,070	694	65.0	373	35.0	0	.0	3
Cullman	2,220	2,208	99.5	11	.5	0	.0	1
Dale	989	699	70.7	289	29.3	0	.0	1
Dallas	2,551	439	17.3	2,103	82.7	0	.0	9
DeKalb	2,045	1,993	98.2	37	1.8	0	.0	15
Elmore	1,158	696	60.2	461	39.8	0	.0	1
Escambia	1,299	726	56.3	546	42.3	18	1.4	9
Etowah	2,864	2,411	84.2	451	15.8	0	.0	2
Fayette	992	842	85.0	149	15.0	0	.0	1
Franklin	1,291	1,215	94.3	73	5.7	0	.0	3
Geneva	1,155	964	83.7	188	16.3	0	.0	3
Greene	883	87	9.9	795	90.1	0	.0	1
Hale	1,077	193	17.9	884	82.1	0	.0	0
Henry	767	400	53.3	351	46.7	0	.0	16
Houston	1,961	1,276	65.2	681	34.8	0	.0	4
Jackson	1,569	1,451	92.9	111	7.1	0	.0	7
Jefferson	13,031	5,873	45.2	7,132	54.8	3	2/	23
Lamar	972	834	86.4	131	13.6	0	.0	7
Lauderdale	2,001	1,589	79.6	407	20.4	0	.0	5
Lawrence	1,315	937	71.4	376	28.6	0	.0	2
Lee	1,407	493	35.1	910	64.9	0	.0	4
Limestone	1,412	980	69.6	429	30.4	0	.0	3
Lowndes	811	76	10.1	677	89.9	0	.0	58
Macon	935	118	12.6	816	87.4	0	.0	1
Madison	2,506	1,531	63.0	898	37.0	0	.0	77
Marengo	1,372	250	18.2	1,121	81.8	0	.0	1
Marion	1,467	1,419	97.5	35	2.4	1	.1	12
Marshall	1,920	1,778	97.4	48	2.6	0	.0	94
Mobile	5,004	2,421	48.4	2,562	51.2	20	.4	1
Monroe	1,058	426	40.3	629	59.6	1	.1	2
Montgomery	3,566	1,166	32.7	2,396	67.3	0	.0	4
Morgan	2,180	1,716	80.8	407	19.2	0	.0	57
Perry	1,022	206	20.3	809	79.7	0	.0	7
Pickens	1,334	647	48.5	687	51.5	0	.0	0
Pike	1,142	505	44.2	637	55.8	0	.0	0
Randolph	1,135	816	72.0	318	28.0	0	.0	1
Russell	1,502	581	38.7	921	61.3	0	.0	0
St. Clair	1,016	820	80.9	194	19.1	0	.0	2
Shelby	1,212	883	72.9	329	27.1	0	.0	0
Sumter	1,200	128	10.7	1,070	89.3	0	.0	2
Talladega	2,404	1,505	63.0	882	37.0	0	.0	17
Tallapoosa	1,713	1,181	69.1	529	30.9	0	.0	3
Tuscaloosa	3,080	1,744	57.1	1,312	42.9	0	.0	24
Walker	2,656	2,330	87.7	326	12.3	0	.0	0
Washington	681	360	52.9	286	42.0	35	5.1	0
Wilcox	1,010	142	14.1	864	85.9	0	.0	4
Winston	805	801	99.5	4	.5	0	.0	0

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

2/ Less than .05 percent.

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Table 4: AID TO BLIND CASES FOR JUNE 1964-CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE			
		White	Negro	Other	Not Reported
TOTAL 1/	1,761	891	851	3	16
Autauga	14	5	9	0	0
Baldwin	28	16	12	0	0
Barbour	19	3	16	0	0
Bibb	11	6	4	0	1
Blount	10	9	1	0	0
Bullock	10	0	10	0	0
Butler	19	12	7	0	0
Calhoun	33	23	10	0	0
Chambers	24	9	15	0	0
Cherokee	5	5	0	0	0
Chilton	20	18	2	0	0
Choctaw	25	10	15	0	0
Clarke	14	3	11	0	0
Clay	12	10	1	0	1
Cleburne	5	5	0	0	0
Coffee	38	28	9	0	1
Colbert	23	16	7	0	0
Conecuh	15	7	8	0	0
Coosa	7	2	4	0	1
Covington	40	32	8	0	0
Crenshaw	9	8	1	0	0
Cullman	18	17	1	0	0
Dale	29	17	12	0	0
Dallas	36	4	31	0	1
DeKalb	30	27	1	0	2
Elmore	17	12	5	0	0
Escambia	16	4	11	1	0
Etowah	36	21	15	0	0
Fayette	17	10	7	0	0
Franklin	20	17	3	0	0
Geneva	36	31	5	0	0
Greene	9	0	9	0	0
Hale	17	1	16	0	0
Henry	11	4	7	0	0
Houston	45	27	18	0	0
Jackson	28	25	3	0	0
Jefferson	249	77	172	0	0
Lamar	14	9	5	0	0
Lauderdale	29	23	6	0	0
Lawrence	13	11	2	0	0
Lee	16	7	9	0	0
Limestone	34	24	9	0	1
Lowndes	8	0	6	0	2
Macon	11	1	10	0	0
Madison	35	17	18	0	0
Marengo	10	1	9	0	0
Marion	22	22	0	0	0
Marshall	24	22	1	0	1
Mobile	99	34	64	1	0
Monroe	9	1	8	0	0
Montgomery	73	14	59	0	0
Morgan	22	14	7	0	1
Perry	14	4	10	0	0
Pickens	16	5	11	0	0
Pike	9	2	7	0	0
Randolph	18	14	3	0	1
Russell	20	4	16	0	0
St. Clair	15	11	4	0	0
Shelby	18	10	8	0	0
Sumter	21	2	19	0	0
Talladega	71	41	29	0	1
Tallapoosa	23	15	7	0	1
Tuscaloosa	57	23	33	0	1
Walker	32	26	6	0	0
Washington	6	2	3	1	0
Wilcox	16	0	16	0	0
Winston	11	11	0	0	0

1/ Percentage distribution by race of total Aid to Blind cases is as follows: White, 51.0%; Negro, 48.8%; Other, .2%.

Table 5. FAMILIES RECEIVING AID TO DEPENDENT CHILDREN FOR JUNE 1964
CLASSIFIED BY RACE

COUNTY	TOTAL FAMILIES	RACE						
		White		Negro		Other		Not Reported
		Number	Percent of Total Families 1/	Number	Percent of Total Families 1/	Number	Percent of Total Families 1/	
TOTAL	22,373	7,460	33.7%	14,593	66.0%	60	.3%	260
Autauga	200	23	11.5	177	88.5	0	.0	0
Baldwin	245	88	36.1	155	63.5	1	.4	1
Barbour	485	43	8.9	442	91.1	0	.0	0
Bibb	183	52	28.7	129	71.3	0	.0	2
Blount	165	157	95.2	8	4.8	0	.0	0
Bullock	120	6	5.0	114	95.0	0	.0	0
Butler	231	35	15.2	195	84.8	0	.0	1
Calhoun	858	324	37.8	534	62.2	0	.0	0
Chambers	283	43	15.2	240	84.8	0	.0	0
Cherokee	84	53	66.2	27	33.8	0	.0	4
Chilton	142	88	65.7	46	34.3	0	.0	8
Choctaw	255	43	16.9	212	83.1	0	.0	0
Clarke	196	14	7.3	178	92.7	0	.0	4
Clay	102	56	57.1	42	42.9	0	.0	4
Cleburne	66	55	83.3	11	16.7	0	.0	0
Coffee	269	112	41.8	156	58.2	0	.0	1
Colbert	383	163	43.0	216	57.0	0	.0	4
Conecuh	152	31	20.4	121	79.6	0	.0	0
Coosa	115	31	27.4	82	72.6	0	.0	2
Covington	274	154	56.2	120	43.8	0	.0	0
Crenshaw	217	74	34.1	143	65.9	0	.0	0
Cullman	229	224	98.7	3	1.3	0	.0	2
Dale	213	74	34.7	139	65.3	0	.0	0
Dallas	616	13	2.1	597	97.9	0	.0	6
DeKalb	357	316	90.0	35	10.0	0	.0	6
Elmore	96	26	27.1	70	72.9	0	.0	0
Escambia	108	22	22.0	72	72.0	6	6.0	8
Etowah	546	324	59.4	221	40.6	0	.0	1
Fayette	106	69	65.7	36	34.3	0	.0	1
Franklin	187	159	85.5	27	14.5	0	.0	1
Geneva	158	87	59.2	60	40.8	0	.0	11
Greene	167	0	.0	167	100.0	0	.0	0
Hale	187	10	5.4	176	94.6	0	.0	1
Henry	166	44	27.2	118	72.8	0	.0	4
Houston	358	95	26.9	258	73.1	0	.0	5
Jackson	330	275	85.9	45	14.1	0	.0	10
Jefferson	2,691	479	17.9	2,194	82.1	0	.0	18
Lamar	168	100	59.9	67	40.1	0	.0	1
Lauderdale	323	232	72.0	90	28.0	0	.0	1
Lawrence	427	206	48.2	221	51.8	0	.0	0
Lee	184	23	12.7	158	87.3	0	.0	3
Limestone	342	160	49.1	166	50.9	0	.0	16
Lowndes	185	1	.7	148	99.3	0	.0	36
Macon	78	3	3.9	74	96.1	0	.0	1
Madison	721	273	38.5	436	61.5	0	.0	12
Marengo	256	12	4.7	244	95.3	0	.0	0
Marion	201	167	83.9	31	15.6	1	.5	2
Marshall	294	256	91.1	24	8.5	1	.4	13
Mobile	1,911	257	13.5	1,629	85.2	25	1.3	0
Monroe	112	14	12.5	98	87.5	0	.0	0
Montgomery	377	68	18.2	306	81.8	0	.0	3
Morgan	463	226	49.8	228	50.2	0	.0	9
Perry	156	7	4.6	146	95.4	0	.0	3
Pickens	445	55	12.4	390	87.6	0	.0	0
Pike	103	30	29.1	73	70.9	0	.0	0
Randolph	58	20	35.1	37	64.9	0	.0	1
Russell	193	22	11.4	171	88.6	0	.0	0
St. Clair	121	84	70.6	35	29.4	0	.0	2
Shelby	221	105	47.5	116	52.5	0	.0	0
Sumter	220	7	3.2	213	96.8	0	.0	0
Talladega	681	205	30.6	465	69.4	0	.0	11
Tallapoosa	340	81	24.2	254	75.8	0	.0	5
Tuscaloosa	1,157	278	24.4	862	75.6	0	.0	17
Walker	747	551	73.8	196	26.2	0	.0	0
Washington	106	37	34.9	43	40.6	26	24.5	0
Wilcox	129	6	5.4	105	94.6	0	.0	18
Winston	114	112	99.1	1	.9	0	.0	1

1/ Percentage distribution computed on basis of total excluding families for whom race was not reported.

Table 6. CHILDREN RECEIVING AID TO CHILDREN IN FOSTER CARE FOR JUNE 1964 CLASSIFIED BY RACE

COUNTY	TOTAL CHILDREN	RACE		
		White	Negro	Not Reported
TOTAL 1/	1,704	860	628	216
Autauga	2	2	0	0
Baldwin	6	4	2	0
Barbour	29	12	16	1
Bibb	13	12	1	0
Blount	11	6	0	5
Bullock	4	0	3	1
Butler	27	5	21	1
Calhoun	89	61	28	0
Chambers	6	3	1	2
Cherokee	9	6	0	3
Chilton	2	1	1	0
Choctaw	12	6	2	4
Clarke	13	4	6	3
Clay	2	2	0	0
Cleburne	5	4	1	0
Coffee	7	7	0	0
Colbert	12	7	4	1
Conecuh	14	0	14	0
Coosa	9	4	5	0
Covington	23	17	6	0
Crenshaw	19	16	3	0
Cullman	29	23	0	6
Dale	12	5	1	6
Dallas	47	6	37	4
DeKalb	23	16	0	7
Elmore	30	13	17	0
Escambia	27	6	9	12
Etowah	30	23	6	1
Fayette	0	0	0	0
Franklin	13	13	0	0
Geneva	4	0	4	0
Greene	1	0	1	0
Hale	4	1	3	0
Henry	1	0	0	1
Houston	8	7	1	0
Jackson	32	16	0	16
Jefferson	327	112	167	48
Lamar	1	1	0	0
Lauderdale	40	29	6	5
Lawrence	25	22	2	1
Lee	11	3	6	2
Limestone	7	2	5	0
Lowndes	18	3	14	1
Macon	0	0	0	0
Madison	38	7	3	28
Marengo	7	0	7	0
Marion	8	1	0	7
Marshall	53	30	3	20
Mobile	173	100	73	0
Monroe	1	0	1	0
Montgomery	35	15	19	1
Morgan	94	62	22	10
Perry	3	2	1	0
Pickens	5	4	1	0
Pike	8	2	6	0
Randolph	15	5	6	4
Russell	14	11	3	0
St. Clair	23	16	5	2
Shelby	12	8	4	0
Sumter	10	2	8	0
Talladega	33	19	14	0
Tallapoosa	20	5	13	2
Tuscaloosa	86	47	39	0
Walker	40	28	2	10
Washington	13	7	5	1
Wilcox	0	0	0	0
Winston	9	9	0	0

1/ Percentage distribution by race of total number of children receiving Aid to Children in Foster Care is as follows: White, 57.8%; Negro, 42.2%.

Table 7. AID TO PERMANENTLY AND TOTALLY DISABLED CASES
FOR JUNE 1964 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE						
		White		Negro.		Other		Not Reported
		Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	Number	Percent of Total Cases 1/	
TOTAL	14,522	8,730	60.6%	5,641	39.2%	25	.2%	126
Autauga	103	39	37.9	64	62.1	0	.0	0
Baldwin	150	98	66.7	48	32.6	1	.7	3
Barbour	235	78	33.2	157	66.8	0	.0	0
Bibb	130	81	62.8	48	37.2	0	.0	1
Blount	141	140	100.0	0	.0	0	.0	1
Bullock	85	16	18.8	69	81.2	0	.0	0
Butler	136	70	51.5	66	48.5	0	.0	0
Calhoun	319	225	70.5	94	29.5	0	.0	0
Chambers	183	72	39.8	109	60.2	0	.0	2
Cherokee	63	56	93.3	4	6.7	0	.0	
Chilton	137	115	83.9	22	16.1	0	.0	
Choctaw	147	67	45.6	80	54.4	0	.0	
Clarke	104	36	34.6	68	65.4	0	.0	0
Clay	115	105	93.8	7	6.2	0	.0	
Cleburne	80	77	96.2	3	3.8	0	.0	
Coffee	226	178	78.8	48	21.2	0	.0	0
Colbert	192	139	72.4	53	27.6	0	.0	0
Conecuh	147	79	54.1	67	45.9		.0	1
Coosa	72	40	58.8	28	41.2		.0	4
Covington	273	211	77.3	62	22.7		.0	0
Crenshaw	156	104	67.1	51	32.9	0	.0	
Cullman	205	197	97.0	6	3.0	0	.0	2
Dale	165	117	70.9	48	29.1	0	.0	0
Dallas	331	47	14.2	283	85.8	0	.0	1
DeKalb	300	282	97.9	6	2.1	0	.0	12
Elmore	108	57	52.8	51	47.2	0	.0	0
Escambia	97	61	63.6	34	35.4	1	1.0	1
Etowah	416	320	77.5	93	22.5	0	.0	3
Fayette	95	75	78.9	20	21.1	0	.0	0
Franklin	191	179	93.7	12	6.3	0	.0	0
Geneva	152	130	86.7	20	13.3	0	.0	2
Greene	78	5	6.4	73	93.6	0	.0	0
Hale	85	13	15.3	72	84.7	0	.0	0
Henry	112	50	45.9	59	54.1	0	.0	3
Houston	255	147	57.6	108	42.4	0	.0	0
Jackson	244	230	95.0	12	5.0	0	.0	2
Jefferson	1,480	620	41.9	860	58.1	0	.0	0
Lamar	164	142	87.7	20	12.3	0	.0	2
Lauderdale	248	200	81.0	47	19.0	0	.0	1
Lawrence	225	165	73.3	60	26.7	0	.0	0
Lee	155	53	34.6	100	65.4	0	.0	2
Limestone	245	184	75.4	60	24.6	0	.0	1
Lowndes	86	9	12.0	66	88.0	0	.0	11
Macon	56	4	7.1	52	92.9	0	.0	0
Madison	371	229	63.3	133	36.7	0	.0	9
Marengo	131	17	13.0	114	87.0	0	.0	0
Marion	263	247	95.7	11	4.3	0	.0	5
Marshall	289	254	95.5	12	4.5	0	.0	23
Mobile	723	267	36.9	449	62.1	7	1.0	0
Monroe	96	35	36.5	61	63.5	0	.0	0
Montgomery	365	98	27.0	265	73.0	0	.0	2
Morgan	326	250	79.4	65	20.6	0	.0	11
Perry	86	29	34.5	55	65.5	0	.0	2
Pickens	222	111	50.0	111	50.0	0	.0	0
Pike	83	37	44.6	46	55.4	0	.0	0
Randolph	127	90	70.9	37	29.1	0	.0	0
Russell.	195	88	45.1	107	54.9	0	.0	0
St. Clair	142	117	82.4	25	17.6	0	.0	0
Shelby	156	117	75.0	39	25.0	0	.0	0
Sumter	111	12	10.8	99	89.2	0	.0	0
Talladega	410	237	58.1	171	41.9	0	.0	2
Tallapoosa	330	227	68.8	103	31.2	0	.0	0
Tuscaloosa	456	217	48.0	235	52.0	0	.0	4
Walker	581	508	87.6	72	12.4	0	.0	1
Washington	105	52	50.0	36	34.6	16	15.4	1
Wilcox	94	6	6.6	85	93.4	0	.0	3
Winston	173	172	100.0	0	.0	0	.0	1

1/ Percentage distribution computed on basis of total excluding cases for whom race was not reported.

Table 8. TEMPORARY AID CASES FOR JUNE 1964 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE	
		White	Negro
TOTAL 1/	82	30	52
Autauga	1	0	1
Baldwin	0	0	0
Barbour	1	1	0
Bibb	1	0	1
Blount	1	1	0
Bullock	0	0	0
Butler	0	0	0
Calhoun	0	0	0
Chambers	4	2	2
Cherokee	2	1	1
Chilton	2	2	0
Choctaw	2	0	2
Clarke	1	0	1
Clay	0	0	0
Cleburne	0	0	0
Coffee	0	0	0
Colbert	0	0	0
Conecuh	0	0	0
Coosa	0	0	0
Covington	0	0	0
Crenshaw	0	0	0
Cullman	0	0	0
Dale	1	1	0
Dallas	5	1	4
DeKalb	0	0	0
Elmore	0	0	0
Escambia	0	0	0
Etowah	1	1	0
Fayette	0	0	0
Franklin	1	1	0
Geneva	0	0	0
Greene	0	0	0
Hale	7	0	7
Henry	0	0	0
Houston	0	0	0
Jackson	1	1	0
Jefferson	13	2	11
Lamar	1	0	1
Lauderdale	0	0	0
Lawrence	3	1	2
Lee	0	0	0
Limestone	1	1	0
Lowndes	2	0	2
Macon	0	0	0
Madison	0	0	0
Marengo	1	0	1
Marion	0	0	0
Marshall	0	0	0
Mobile	8	1	7
Monroe	2	1	1
Montgomery	2	1	1
Morgan	0	0	0
Perry	0	0	0
Pickens	2	1	1
Pike	0	0	0
Randolph	0	0	0
Russell	1	1	0
St. Clair	0	0	0
Shelby	0	0	0
Sumter	0	0	0
Talladega	3	2	1
Tallapoosa	3	1	2
Tuscaloosa	4	1	3
Walker	2	2	0
Washington	0	0	0
Wilcox	0	0	0
Winston	3	3	0

1/ Percentage distribution by race of total Temporary Aid cases is as follows: White, 36.6%; Negro, 63.4%.

Table 9. [illegible]

JUNE 1964 CLASSIFIED BY RACE

COUNTY	TOTAL CASES	RACE	
		White	Negro
TOTAL 1/	235	130	105
Autauga	0	0	0
Baldwin	2	1	1
Barbour	0	0	0
Bibb	0	0	0
Blount	4	3	1
Bullock	0	0	0
Butler	0	0	0
Calhoun	10	6	4
Chambers	5	0	5
Cherokee	3	1	2
Chilton	5	0	5
Choctaw	3	2	1
Clarke	4	2	2
Clay	1	0	1
Cleburne	0	0	0
Coffee	1	1	0
Colbert	3	2	1
Conecuh	1	0	1
Coosa	0	0	0
Covington	3	2	1
Crenshaw	5	3	2
Cullman	5	4	1
Dale	5	2	3
Dallas	7	6	1
DeKalb	0	0	0
Elmore	8	5	3
Escambia	4	3	1
Etowah	3	2	1
Fayette	1	0	1
Franklin	1	1	0
Geneva	8	5	3
Greene	2	2	0
Hale	1	1	0
Henry	2	0	2
Houston	6	3	3
Jackson	5	4	1
Jefferson	11	6	5
Lamar	0	0	0
Lauderdale	4	2	2
Lawrence	2	2	0
Lee	0	0	0
Limestone	2	1	1
Lowndes	0	0	0
Macon	1	1	0
Madison	2	1	1
Marengo	7	4	3
Marion	2	2	0
Marshall	3	2	1
Mobile	30	14	16
Monroe	1	0	1
Montgomery	14	7	7
Morgan	0	0	0
Perry	3	2	1
Pickens	2	2	0
Pike	1	1	0
Randolph	2	0	2
Russell	10	5	5
St. Clair	0	0	0
Shelby	1	1	0
Sumter	1	1	0
Talladega	6	1	5
Tallapoosa	3	1	2
Tuscaloosa	8	4	4
Walker	6	5	1
Washington	4	4	0
Wilcox	1	0	1
Winston	0	0	0

1/ Percentage distribution by race of total Medical Assistance for the Aged cases is as follows: White, 55.3%; Negro 44.7%.

PLAINTIFFS' EXHIBIT 20.

Public Assistance Cases Closed Because of Change In Agency Policy

July 1964-June 1965

Month	Total	Ineligible Because of Substitute Father
Total	2,894	2,894
July 1964	516	516
August	1,045	1,045
September	361	361
October	188	188
November	141	141
December	108	108
January 1965	133	133
February	87	87
March	97	97
April	65	65
May	71	71
June	82	82

Prepared by: Bureau of Research and Statistics

July 26, 1965

Public Assistance Cases Closed Because of Change in Agency Policy

June 1965

County[1]	Total	Ineligible Because of Substitute Father
Total	82[2]	82
Barbour	4	4
Bibb	2	2
Calhoun	6	6
Choctaw	2	2
Colbert	4	4
Covington	2	2
Crenshaw	1	1
Dallas	5	5
Elmore	1	1
Escambia	2	2
Etowah	2	2
Henry	1	1
Houston	2	2
Jefferson	8	8
Lamar	1	1
Lawrence	2	2
Lee	1	1
Lowndes	1	1
Marengo	4	4
Marion	1	1
Marshall	2	2
Mobile	10	10
Montgomery	3	3
Morgan	2	2
Perry	1	1

[1] Only those counties reporting one or more cases are listed.

[2] All are ADC cases.

Pickens	4	4
Pike	1	1
Russell	1	1
Saint Clair	1	1
Shelby	1	1
Tallapoosa	1	1
Walker	3	3

Prepared by: Bureau of Research and Statistics

July 26, 1965

PLAINTIFFS' EXHIBIT 22.

State of Alabama

Department of Pensions and Security
Montgomery

Characteristics of Families and Children
Receiving Aid to Dependent Children

March 1963

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 1. RACE

RACE	TOTAL FAMILIES Number	TOTAL FAMILIES Percent	TOTAL CHILDREN Number	TOTAL CHILDREN Percent
TOTAL	22,574	100.0%	71,753 1/	100.0%
White	8,172	36.2	22,789	31.8
Negro	14,346	63.6	48,779	68.0
Other	56	.2	185	.2

1/ Excludes 348 unborn children, of whom 179 were in white families and 169 in Negro families.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 2. STATUS OF FATHER WITH RESPECT TO ELIGIBILITY OF CHILDREN FOR ADC 1/

STATUS OF FATHER WITH RESPECT TO ELIGIBILITY OF CHILDREN FOR ADC 1/	TOTAL FAMILIES		RACE		
	Number	Percent	White	Negro	Other
TOTAL	22,574	100.0%	8,172	14,346	56
Dead	2,646	11.7	949	1,680	17
Incapacitated (In home or elsewhere)	5,754	25.5	3,863	1,868	23
Absent:					
Divorced or legally separated	1,218	5.4	817	400	1
Separated without court decree	1,564	6.9	358	1,206	0
Deserting	3,761	16.7	1,009	2,745	7
Not married to mother	6,419	28.4	657	5,759	3
Imprisoned	920	4.1	386	530	4
Absent for other reason	169	.8	69	100	0
Other status	123	.5	64	58	1

1/ Based on status of father of the greatest number of children or, in case of equal division, father of the youngest child.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 3. WHEREABOUTS OF FATHER 1/

WHEREABOUTS OF FATHER 1/	TOTAL FAMILIES		RACE		
	Number	Percent 2/	White	Negro	Other
TOTAL	22,574	100.0%	8,172	14,346	56
Inapplicable - father dead	2,646	11.7	949	1,680	17
In home	5,276	23.4	3,645	1,607	24
Not in home:					
In same county as family	3,382	15.0	691	2,690	1
In same State but not same county	1,762	7.8	652	1,105	5
Elsewhere - whereabouts known	1,698	7.5	483	1,213	2
Elsewhere - whereabouts unknown	7,807	34.6	1,752	6,048	7
Not reported	3	xx	0	3	0

1/ Based on father of greatest number of children or, in case of equal division, father of the youngest child.

2/ Percentage distribution computed on basis of total excluding families for whom item was not reported.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 4. EMPLOYMENT STATUS OF MOTHER IF IN HOME

EMPLOYMENT STATUS OF MOTHER	TOTAL FAMILIES		RACE		
	Number	Percent 1/	White	Negro	Other
TOTAL	22,574	100.0%	8,172	14,346	56
Mother not in home	3,339	14.8	950	2,384	5
Mother in home:					
Not working	10,879	48.2	5,475	5,358	46
Working full time	2,127	9.4	261	1,865	1
Working part time	6,227	27.6	1,485	4,738	4
Not reported	2	xx	1	1	0

1/ Percentage distribution computed on basis of total excluding families for whom item was not reported.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 5. CONTRIBUTIONS FROM ABSENT FATHER(S)

AMOUNT OF CONTRIBUTIONS	TOTAL FAMILIES		RACE		
	Number	Percent	White	Negro	Other
TOTAL	22,574	100.0%	8,172	14,346	56
None	20,829	92.3	7,862	12,911	56
Less than $10	213	.9	29	184	0
$10 but less than $20	294	1.3	38	256	0
$20 but less than $30	394	1.7	48	346	0
$30 but less than $40	194	.9	24	170	0
$40 but less than $50	221	1.0	51	170	0
$50 but less than $60	108	.5	20	88	0
$60 but less than $70	118	.5	31	87	0
$70 but less than $80	41	.2	5	36	0
$80 but less than $90	68	.3	25	43	0
$90 but less than $100	18	.1	9	9	0
$100 and over	76	.3	30	46	0

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 6. LEGITIMACY STATUS OF CHILDREN

LEGITIMACY STATUS	TOTAL CHILDREN		RACE		
	Number	Percent 1/	White	Negro	Other
TOTAL	71,753 2/	100.0%	22,789	48,779	185
Legitimate	52,850	73.7	21,623	31,057	170
Illegitimate	18,813	26.3	1,157	17,641	15
Unknown	90	xx	9	81	0

1/ Percentage distribution computed on basis of total excluding children for whom item was unknown.

2/ Excludes 348 unborn children, of whom 179 were in white families and 169 in Negro families.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN

MARCH 1963

Table 7. STATUS OF CHILD'S NATURAL, STEP, OR ADOPTIVE FATHER

STATUS OF CHILD'S NATURAL, STEP, OR ADOPTIVE FATHER	TOTAL CHILDREN		RACE		
	Number	Percent 1/	White	Negro	Other
TOTAL	71,753 2/	100.0%	22,789	48,779	185
Dead	7,879	11.0	2,334	5,502	43
Incapacitated	19,899	27.7	12,133	7,683	83
Absent:					
Divorced or legally separated	3,505	4.9	2,110	1,391	4
Separated without court decree	5,354	7.5	995	4,359	0
Deserting	12,084	16.8	2,624	9,439	21
Not married to mother	19,121	26.7	1,085	18,020	16
Imprisoned	3,027	4.2	1,161	1,852	14
Absent for other reason	439	.6	144	295	0
Other status	443	.6	203	236	4
Unknown	2	xx	0	2	0

1/ Percentage distribution computed on basis of total excluding children for whom item was unknown.

2/ Excludes 348 unborn children, of whom 179 were in white families and 169 in Negro families.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN
MARCH 1963

Table 8. RACE OF FAMILIES BY COUNTY

COUNTY	TOTAL FAMILIES	RACE					
		White		Negro		Other	
		Number	Percent of Total Families	Number	Percent of Total Families	Number	Percent of Total Families
TOTAL	22,574	8,172	36.2%	14,346	63.6%	56	.2%
Autauga	232	31	13.4	201	86.6	0	.0
Baldwin	249	90	36.1	158	63.5	1	.4
Barbour	532	67	12.6	465	87.4	0	.0
Bibb	180	57	31.7	123	68.3	0	.0
Blount	189	175	92.6	14	7.4	0	.0
Bullock	143	8	5.6	135	94.4	0	.0
Butler	254	48	18.9	206	81.1	0	.0
Calhoun	748	288	38.5	460	61.5	0	.0
Chambers	287	49	17.1	238	82.9	0	.0
Cherokee	80	57	71.2	23	28.8	0	.0
Chilton	166	111	66.9	55	33.1	0	.0
Choctaw	241	47	19.5	194	80.5	0	.0
Clarke	221	27	12.2	194	87.8	0	.0
Clay	122	69	56.6	53	43.4	0	.0
Cleburne	85	72	84.7	13	15.3	0	.0
Coffee	281	127	45.2	154	54.8	0	.0
Colbert	376	172	45.7	204	54.3	0	.0
Conecuh	161	40	24.8	121	75.2	0	.0
Coosa	117	35	29.9	82	70.1	0	.0
Covington	311	184	59.2	127	40.8	0	.0
Crenshaw	228	76	33.3	152	66.7	0	.0
Cullman	225	223	99.1	2	.9	0	.0
Dale	221	85	38.5	136	61.5	0	.0
Dallas	708	24	3.4	684	96.6	0	.0
DeKalb	373	342	91.7	31	8.3	0	.0
Elmore	108	38	35.2	70	64.8	0	.0
Escambia	110	26	23.6	78	70.9	6	5.5
Etowah	542	329	60.7	213	39.3	0	.0
Fayette	135	93	68.9	42	31.1	0	.0
Franklin	187	158	84.5	28	15.0	1	.5
Geneva	182	104	57.1	78	42.9	0	.0
Greene	181	2	1.1	179	98.9	0	.0
Hale	179	12	6.7	167	93.3	0	.0
Henry	174	40	23.0	134	77.0	0	.0
Houston	351	108	30.8	243	69.2	0	.0
Jackson	407	357	87.7	50	12.3	0	.0
Jefferson	2,307	455	19.7	1,852	80.3	0	.0
Lamar	200	115	57.5	85	42.5	0	.0
Lauderdale	364	267	73.4	97	26.6	0	.0
Lawrence	438	215	49.1	223	50.9	0	.0
Lee	156	19	12.2	137	87.8	0	.0
Limestone	402	215	53.5	187	46.5	0	.0
Lowndes	155	3	1.9	152	98.1	0	.0
Macon	58	1	1.7	57	98.3	0	.0
Madison	713	274	38.4	439	61.6	0	.0
Marengo	224	10	4.5	214	95.5	0	.0
Marion	242	205	84.7	36	14.9	1	.4
Marshall	324	300	92.6	24	7.4	0	.0
Mobile	1,720	277	16.1	1,421	82.6	22	1.3
Monroe	134	23	17.2	111	82.8	0	.0
Montgomery	389	79	20.3	310	79.7	0	.0
Morgan	512	271	52.9	241	47.1	0	.0
Perry	154	8	5.2	146	94.8	0	.0
Pickens	421	67	15.9	354	84.1	0	.0
Pike	103	30	29.1	73	70.9	0	.0
Randolph	56	23	41.1	33	58.9	0	.0
Russell	303	36	11.9	267	88.1	0	.0
Saint Clair	120	88	73.3	32	26.7	0	.0
Shelby	236	113	47.9	123	52.1	0	.0
Sumter	208	3	1.4	205	98.6	0	.0
Talladega	702	224	31.9	477	68.0	1	.1
Tallapoosa	366	77	21.0	289	79.0	0	.0
Tuscaloosa	1,118	274	24.5	844	75.5	0	.0
Walker	749	544	72.6	205	27.4	0	.0
Washington	123	44	35.8	55	44.7	24	19.5
Wilcox	158	8	5.1	150	94.9	0	.0
Winston	133	133	100.0	0	.0	0	.0

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN
MARCH 1963

Table 9. RACE OF CHILDREN BY COUNTY

COUNTY	TOTAL CHILDREN	RACE					
		White		Negro		Other	
		Number	Percent of Total Children	Number	Percent of Total Children	Number	Percent of Total Children
TOTAL	71,753 1/	22,789	31.8%	48,779	68.0%	185	.2%
Autauga	750	86	11.5	664	88.5	0	.0
Baldwin	850	273	32.1	572	67.3	5	.6
Barbour	1,583	156	9.9	1,427	90.1	0	.0
Bibb	633	190	30.0	443	70.0	0	.0
Blount	498	451	90.6	47	9.4	0	.0
Bullock	533	28	5.3	505	94.7	0	.0
Butler	837	123	14.7	714	85.3	0	.0
Calhoun	2,387	866	36.3	1,521	63.7	0	.0
Chambers	974	144	14.8	830	85.2	0	.0
Cherokee	205	125	61.0	80	39.0	0	.0
Chilton	479	289	60.3	190	39.7	0	.0
Choctaw	827	123	14.9	704	85.1	0	.0
Clarke	784	81	10.3	703	89.7	0	.0
Clay	330	168	50.9	162	49.1	0	.0
Cleburne	219	191	87.2	28	12.8	0	.0
Coffee	790	307	38.9	483	61.1	0	.0
Colbert	1,185	520	43.9	665	56.1	0	.0
Conecuh	501	99	19.8	402	80.2	0	.0
Coosa	322	91	28.3	231	71.7	0	.0
Covington	869	506	58.2	363	41.8	0	.0
Crenshaw	702	196	27.9	506	72.1	0	.0
Cullman	606	601	99.2	5	.8	0	.0
Dale	670	234	34.9	436	65.1	0	.0
Dallas	2,600	66	2.5	2,534	97.5	0	.0
DeKalb	931	838	90.0	93	10.0	0	.0
Elmore	361	88	24.4	273	75.6	0	.0
Escambia	352	74	21.0	258	73.3	20	5.7
Etowah	1,574	910	57.8	664	42.2	0	.0
Fayette	362	228	63.0	134	37.0	0	.0
Franklin	456	377	82.7	78	17.1	1	.2
Geneva	609	326	53.5	283	46.5	0	.0
Greene	627	8	1.3	619	98.7	0	.0
Hale	608	25	4.1	583	95.9	0	.0
Henry	574	128	22.3	446	77.7	0	.0
Houston	1,096	268	24.5	828	75.5	0	.0
Jackson	1,202	1,049	87.3	153	12.7	0	.0
Jefferson	7,646	1,308	17.1	6,338	82.9	0	.0
Lamar	513	291	56.7	222	43.3	0	.0
Lauderdale	1,131	826	73.0	305	27.0	0	.0
Lawrence	1,370	642	46.9	728	53.1	0	.0
Lee	523	46	8.8	477	91.2	0	.0
Limestone	1,239	602	48.6	637	51.4	0	.0
Lowndes	587	7	1.2	580	98.8	0	.0
Macon	214	1	.5	213	99.5	0	.0
Madison	2,345	858	36.6	1,487	63.4	0	.0
Marengo	817	18	2.2	799	97.8	0	.0
Marion	638	547	85.7	88	13.8	3	.5
Marshall	885	826	93.3	59	6.7	0	.0
Mobile	6,228	872	14.0	5,283	84.8	73	1.2
Monroe	468	50	10.7	418	89.3	0	.0
Montgomery	1,327	251	18.9	1,076	81.1	0	.0
Morgan	1,463	774	52.9	689	47.1	0	.0
Perry	528	20	3.8	508	96.2	0	.0
Pickens	1,327	168	12.7	1,159	87.3	0	.0
Pike	345	83	24.1	262	75.9	0	.0
Randolph	190	72	37.9	118	62.1	0	.0
Russell	914	83	9.1	831	90.9	0	.0
Saint Clair	319	236	74.0	83	26.0	0	.0
Shelby	706	299	42.4	407	57.6	0	.0
Sumter	676	6	.9	670	99.1	0	.0
Talladega	2,256	635	28.2	1,618	71.7	3	.1
Tallapoosa	1,098	230	20.9	868	79.1	0	.0
Tuscaloosa	3,624	739	20.4	2,885	79.6	0	.0
Walker	2,241	1,587	70.8	654	29.2	0	.0
Washington	430	141	32.8	209	48.6	80	18.6
Wilcox	494	13	2.6	481	97.4	0	.0
Winston	325	325	100.0	0	.0	0	.0

1/ Excludes 348 unborn children, of whom 179 were in white families and 169 in Negro families.

CHARACTERISTICS OF FAMILIES AND CHILDREN RECEIVING AID TO DEPENDENT CHILDREN
MARCH 1963

Table 10. LEGITIMACY STATUS OF CHILDREN BY COUNTY

COUNTY	TOTAL CHILDREN	LEGITIMACY STATUS OF CHILDREN				
		Legitimate		Illegitimate		
		Number	Percent of Total Children 1/	Number	Percent of Total Children 1/	Unknown
TOTAL	71,753 2/	52,850	73.7%	18,813	26.3%	90
Autauga	750	497	66.3	253	33.7	0
Baldwin	850	685	80.6	165	19.4	0
Barbour	1,583	967	61.4	609	38.6	7
Bibb	633	510	80.6	123	19.4	0
Blount	498	457	91.8	41	8.2	0
Bullock	533	332	62.3	201	37.7	0
Butler	837	629	75.1	208	24.9	0
Calhoun	2,387	1,760	73.7	627	26.3	0
Chambers	974	689	70.7	285	29.3	0
Cherokee	205	176	85.9	29	14.1	0
Chilton	479	422	88.1	57	11.9	0
Choctaw	827	598	72.3	229	27.7	0
Clarke	784	544	69.4	240	30.6	0
Clay	330	282	86.2	45	13.8	3
Cleburne	219	197	90.0	22	10.0	0
Coffee	790	609	77.9	173	22.1	8
Colbert	1,185	874	73.9	309	26.1	2
Conecuh	501	399	79.6	102	20.4	0
Coosa	322	211	66.1	108	33.9	3
Covington	869	721	83.0	148	17.0	0
Crenshaw	702	554	78.9	148	21.1	0
Cullman	606	577	95.2	29	4.8	0
Dale	670	502	74.9	168	25.1	0
Dallas	2,600	1,254	48.2	1,346	51.8	0
DeKalb	931	839	90.1	92	9.9	0
Elmore	361	278	77.0	83	23.0	0
Escambia	352	260	73.9	92	26.1	0
Etowah	1,574	1,301	82.7	272	17.3	1
Fayette	362	332	91.7	30	8.3	0
Franklin	456	404	88.6	52	11.4	0
Geneva	609	517	85.3	89	14.7	3
Greene	627	339	54.1	288	45.9	0
Hale	608	437	71.9	171	28.1	0
Henry	574	478	83.6	94	16.4	2
Houston	1,096	918	83.8	177	16.2	1
Jackson	1,202	1,100	91.7	100	8.3	2
Jefferson	7,646	5,265	68.9	2,372	31.1	9
Lamar	513	425	82.8	88	17.2	0
Lauderdale	1,131	1,004	88.8	127	11.2	0
Lawrence	1,370	964	70.4	406	29.6	0
Lee	523	415	83.0	85	17.0	23
Limestone	1,239	923	74.5	316	25.5	0
Lowndes	587	281	47.9	306	52.1	0
Macon	214	143	66.8	71	33.2	0
Madison	2,345	1,522	65.0	820	35.0	3
Marengo	817	482	59.0	335	41.0	0
Marion	638	583	91.4	55	8.6	0
Marshall	885	811	91.6	74	8.4	0
Mobile	6,228	4,613	74.2	1,607	25.8	8
Monroe	468	323	69.0	145	31.0	0
Montgomery	1,327	971	73.2	356	26.8	0
Morgan	1,463	1,203	82.4	257	17.6	3
Perry	528	311	58.9	217	41.1	0
Pickens	1,327	860	64.8	467	35.2	0
Pike	345	258	74.8	87	25.2	0
Randolph	190	160	84.2	30	15.8	0
Russell	914	644	70.5	270	29.5	0
Saint Clair	319	270	84.6	49	15.4	0
Shelby	706	588	83.3	118	16.7	0
Sumter	676	363	53.8	312	46.2	1
Talladega	2,256	1,712	75.9	544	24.1	0
Tallapoosa	1,098	737	67.1	361	32.9	0
Tuscaloosa	3,624	2,583	71.3	1,039	28.7	2
Walker	2,241	1,880	84.2	352	15.8	9
Washington	430	368	85.6	62	14.4	0
Wilcox	494	241	48.8	253	51.2	0
Winston	325	298	91.7	27	8.3	0

1/ Percentage distribution computed on basis of total excluding children for whom item was unknown.

2/ Excludes 348 unborn children, of whom 179 were in white families and 169 in Negro families.

PLAINTIFFS' EXHIBIT 23.

(Portion)

State of Alabama

Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery, Alabama 36104

Ruben K. King
Commissioner

Patricia W. O'Dell
Confidential Assistant

March 3, 1967

Senator Russell Long
Chairman, Senate Finance Committee
Senate Office Building
Washington, D. C.

Dear Senator Long:

First let me express to you the appreciation of our Alabama welfare agency, the Department of Pensions and Security, for the interest your Committee has shown concerning Secretary Gardner's order terminating funds which go to needy persons in Alabama. The Alabama agency and the needy people of this State, I am sure, have been heartened by the concern and interest of your Committee. I wish to enter, however, a strenuous objection to Secretary Gardner's answer to Senator Hill's questions concerning complaints received and statements made about the Alabama agency before your Committee.

Secretary Gardner has referred your Committee to a complaint made by Reverend K. L. Buford, Alabama Field Director, NAACP, Tuskegee Institute, in which he has claimed that the Alabama agency refused help to needy

persons in Sumter County. At the time these charges were leveled by Secretary Gardner at the Alabama agency, an investigation had already been made by a regional representative of HEW with representatives from the Alabama agency. We wanted your Committee to know the results of this investigation. The complaint was to the effect that the local agency refused to take applications. It was found that the local welfare department in the Sumter County Department of Pensions and Security had taken applications on all persons who requested help. Two of the persons mentioned in the complaint had been receiving two of the largest OAP money grants which the agency can give under its laws and policies. It was learned that another of the persons named in the complaint was already receiving an ADC grant. The application for one applicant was denied because he did not meet eligibility requirements for any type of aid the Alabama agency can give. Three of the people included in the complaint had been known to the agency previously but had not made recent applications. They had neither contacted the agency nor attempted to apply within the past several years.

Senator Russell Long March 3, 1967

We detailed some of this information because it appears that the impression given to the Committee was that Alabama was unwilling to help needy people. I also want to call to your attention that the inaccurate complaint took a considerable amount of time of two representatives from the State office as well as considerable time of the county staff. The representative from the HEW regional office expressed satisfaction with the application process in Sumter County and with the application of agency policy in closing or denying applications according to agency rules.

We would like to emphasize that the investigation was made and completed on January 31st and that Secretary

Gardner's presentation before the Committee was on February 23rd. We consider that he had access to this favorable report on the Alabama agency and we deplore his reference to this. The agency also deplores taking the time of busy professional people to follow through on baseless complaints. One of the serious difficulties our agency has been laboring under is inadequate staff and heavy caseloads. We have long recommended matching funds for administration on a variable grant basis to provide more Federal matching to help us in our administration of the program.

Again I wish to thank you and your Committee for your interest in the problems confronting the needy people of Alabama.

With best wishes, I am

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

cc: Honorable Lurleen B. Wallace
Governor, State of Alabama

Honorable George C. Wallace

Honorable Lister Hill
United States Senator

Honorable John W. Gardner
Secretary, Department of
Health, Education, and Welfare

Regional Representative
Department of Health, Education and Welfare
Atlanta, Georgia.

PLAINTIFF'S EXHIBIT 23a.

Dallas County

Department of Pensions and Security
Selma, Alabama

February 23, 1967

Mr. Ruben K. King, Commissioner
State of Alabama
Department of Pensions and Security
64 North Union Street
Montgomery, Alabama

Attention: Mrs. Mary Lee Stapp
Legal Advisor

Dear Mr. King:

Enclosed you will find the statistics which I have been able to compile from the Dallas County records.

I checked with the Chamber of Commerce in Dallas County and found that according to the 1960 census, the population for the county is 50.8% white and 49.2% non-white. As of January 31, 1967, the ADC case load in Dallas County is composed of 373 active financial assistance cases. Of this number there are 11 white families receiving financial assistance. Since February 1, 1967, 5 of these white cases have been closed for financial assistance leaving only 6 active white cases.

As I mentioned to you when I talked with you on February 20, I have talked with the other ADC case workers regarding the positive effects of the substitute father

policy. As soon as I have been able to condense this information into a form which will be helpful to you, I will forward it to you.

If you need any additional information, please do not hesitate to contact me.

Sincerely yours,

/s/ Jacquelyn Stancil
Mrs. Jacquelyn Stancil
Counsellor

Approved:

Augusta L. Wilkinson

Mrs. Clinton S. Wilkinson, Sr., ACSW
Director

JS/dhb

ADC Cases Closed July 1964-December 1966

Month	Substitute Father (Negro)	Substitute Father (White)	Other (Negro)	Other (White)
Effective:				
June 30, 1964	2	0	7	1
July 31, 1964	50	1	18	1
August 31, 1964	32	0	8	0
September 30, 1964	18	0	18	0
October 31, 1964	6	0	5	2
November 30, 1964	8	0	5	0
December 31, 1964	9	0	9	1
Total	125	1	70	5
Effective:				
January 31, 1965	6	0	8	2
February 28, 1965	2	0	7	0
March 31, 1965	7	0	6	0
April 30, 1965	7	0	7	2
May 31, 1965	3	0	7	1
June 30, 1965	3	0	7	0
July 31, 1965	1	0	9	0
August 31, 1965	1	0	8	2
September 30, 1965	2	0	10	1
October 31, 1965	0	0	9	2
November 30, 1965	1	0	9	0
December 31, 1965	0	0	3	1
Total	33	0	90	11
Effective:				
January 31, 1966	1	0	6	0
February 28, 1966	3	0	5	0
March 31, 1966	3	0	6	0
April 30, 1966	2	0	6	0
May 31, 1966	2	1	7	0
June 30, 1966	1	0	7	1
July 31, 1966	3	0	9	0
August 31, 1966	0	0	16	3
September 30, 1966	1	0	14	2
October 31, 1966	2	0	27	0
November 30, 1966	6	0	9	1
December 31, 1966	0	0	8	0
Total	24	1	110	7
Effective:				
January 31, 1967	0	0	11	1

Total Cases Closed Substitute Father
July 1964-January 1967 Negro 182
White 2
Total 184

Total Cases Closed Other
July 1964-January 1967 Negro 282
White 23
Total 305

Action Taken of Cases Closed for Substitute Father Policy

(1) Recertified	Negro	37	White	0
(2) No contacts	Negro	68	White	0
(3) Service contacts	Negro	57	White	2
(4) Applications denied	Negro	7	White	0
(5) Applications Pending	Negro	12	White	0
Total		182		2

(1) Those who have been recertified have broken their extra marital relationship with the substitute father.

(2) Those who have no contact are those who married the men in the home or who have made other plans and were able to become independent and who have made no attempt to request assistance again.

(3) Those who have had service contacts only are those that have not requested financial help. We have tried to help them with clothing, medical assistance for themselves or their children; assisting with legitimation of children; counselling with parents and children about their problems.

(4) Those who have applied, but have been denied, are those who have been unwilling to discontinue their relationship but have requested financial assistance which we have been unable to give.

(5) Those in this group are those who have recently applied for assistance but no decision has been made regarding their eligibility at this time.

Reason for Closing Cases Other Than for Substitute Father June 30, 1964-January 31, 1967

Income Sufficient to Meet Need	White	7	—	Negro	88
No Eligible Child in Home	White	3	—	Negro	48
Absent Parent Back in Home	White	6	—	Negro	23
Left Dallas County	White	3	—	Negro	18
Father No Longer Disabled	White	4	—	Negro	7
Married	White	0	—	Negro	13
Request of Client	White	0	—	Negro	9
Refusal After Acceptance to Comply With Agency Regulations	White	0	—	Negro	17
Change in Payee	White	0	—	Negro	21
Others	White	0	—	Negro	38
	Total	23		Total	282

Jacquelyn Stancil Case Load Closed

Income	Negro	41		White	2
Substitute Father	Negro	19		White	0
A. Married	(Negro	1)		(White	0)
B. No further contacts	(Negro	8)		(White	0)
C. Service Contacts	(Negro	10)		(White	0)
D. Reapplied	(Negro	0)		(White	0)
Ineligible in Home of Parent	Negro	6		White	0
Transferred	Negro	1		White	1
Married	Negro	4		White	0
Parents Willing to Support	Negro	3		White	0
Absent Parent Back in Home	Negro	2		White	2
Request of Client	Negro	1		White	0
Relatives Agree to Support	Negro	2		White	0
No Eligible Child in the Home	Negro	10		White	1
Husband No Longer Disabled	Negro	2		White	2
Refused to Comply With Agency Policies	Negro	3		White	0
Grantee Relative Not Legal Relative	Negro	2		White	0
Left State	Negro	1		White	0
	Total	97		Total	8

PLAINTIFF'S EXHIBIT 23b.

Filed
Apr 25 1967
By R. C. Dobson, Clerk
Deputy Clerk

State of Alabama

Department of Pensions and Security
County: Dallas

ADC Cases Closed Because of Substitute Parent Policy* (Effective July, 1964) Classified by Race

July, 1964—January 31, 1967

	Number of Cases
Total	184
White	2
Negro	182
Other	

2/23/67
Date

AUGUSTA L. WILKINSON
Director's Signature

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* See *Manual for Administration of Public Assistance,* Part I, Chapter II.

PLAINTIFFS' EXHIBIT 24

State of Alabama

Department of Pensions and Security

Ruben K. King, Commissioner

—A DEMONSTRATION PROJECT—

Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Currently Considered Unsuitable

Project Conducted in Dallas County, Alabama
Under Joint Sponsorship of the
State Department of Pensions and Security
and The Field Foundation, Inc.

State of Alabama

Department of Pensions and Security

Ruben K. King, Commissioner

—A DEMONSTRATION PROJECT—

Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Currently Considered Unsuitable

Project Conducted in Dallas County, Alabama
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State Department of Pensions and Security
and The Field Foundation, Inc.

FOREWORD

This is the story of 493 children in 128 aid to dependent children families, living in homes where unfavorable, unsuitable, and inadequate conditions existed. In

spite of these conditions, undeniable bonds of affection and strong family ties were present. The project, therefore, was initiated with a group of cases in which there were the plus values of an own home and love and attachment among family members.

This project demonstrated that multi-problem families have strengths which can be identified and developed under the guidance of a sensitive worker with a small caseload. The following report gives a summary of the problems presented by these families, the services provided, and the progress made over a two-year period. It shows also that under favorable conditions better use can be made of existing resources and that the public can be stimulated in developing new resources as the need is presented and understood.

A special word of appreciation goes to the Field Foundation, Inc., for assistance in financing the project, and to the Dallas County Department of Pensions and Security for cooperation in conducting the project.

PROJECT SITE: Dallas County

DATE OF PROJECT: July 1, 1962, to September 30, 1964

ADVISORY COMMITTEE:

Kitty Clyde Austin, Administrative Assistant
Elizabeth Bryan, Director, Bureau of Public Assistance
Judith H. Gresham, Director, Bureau of Child Welfare
Margaret W. Jordan, Director, Bureau of Research and Statistics
Claire Hall, Training Supervisor
Mayanice Walton, ADC Consultant
Carolee Cobbs, Field Representative
Augusta Wilkinson, Director, Dallas County

LOCAL PROJECT DIRECTOR:

Clara Mae Lloyd

SPONSORSHIP:

Project conducted in Dallas County, Alabama, under joint sponsorship of the State Department of Pensions and Security and The Field Foundation, Inc.

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Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Currently Considered Unsuitable

—A Demonstration Project—

Chapter I

Introduction

Project Plan

Purpose

This project was designed as a demonstration project for purposes of strengthening family life for recipients of aid to dependent children living in homes where conditions were currently considered to be unsuitable.

The project was conducted in Dallas County, Alabama, under the joint sponsorship of the State Department of Pensions and Security and The Field Foundation, Inc. The Field Foundation assumed responsibility for a major portion of the financing for more than a two-year period. The project was conducted during the period July 1, 1962-September 30, 1964, with the last three months devoted to the closing of the project and the preparation of the project report.

The purpose of this project was to demonstrate how children living in homes where there was strong evidence of unsuitability and inadequate conditions could be safeguarded and made more secure. It was anticipated that the service performed would result, in some instances, in a successful strengthening of family life, with children continuing to live in their own homes. In other instances, the service was expected to result in sound planning for removal of children from their own homes when parents

or grantee relatives could not be enabled to provide suitable care.

When parents or grantee relatives were maintaining unsuitable living conditions, the project proposed to demonstrate services and resources which could be utilized in enabling these families to provide more responsible care

for children. The project proposed:

1. To demonstrate the provision of adequate services for selected ADC families falling into the above group with emphasis upon the preventive and rehabilitative aspects of the helping process.

2. To demonstrate the effectiveness of appropriate services when offered at the right time and in the right way.

3. To demonstrate to other workers constructive ways of thinking and feeling about people with serious problems and to refine skills and techniques for enabling individuals to help themselves.

4. To demonstrate skills required to offer sound protective care for children in need of such care.

5. To demonstrate, in cases where court action had to be initiated, the proper use of (a) the petition (Section 361) and (b) the affidavit (Sections 366-367) as provided in Title 13, Code of Alabama, 1940.

6. To stimulate the development of additional resources to meet individual and community needs where no apparent resources existed. The focus was a demonstration of preventive and rehabilitative services needed to achieve the above objectives. The State plan for services and the State plan for a suitable home provision constituted the framework and

provided the guide lines for services used in work with families selected.

Significance of Project

Traditionally, the Alabama public welfare program had centered on children in their own homes. The Alabama program is one of the oldest in the country and ADC workers and child welfare workers are in agreement as to the basic essentials children need to adjust satisfactorily and securely.

In an effort to look more carefully at the suitability of homes in which children in ADC families are living, a suitable home provision was developed and became effective April 1, 1961. This was done in spite of heavy caseloads and limited staff.

The suitable home policy was a regulation of the State department. While the policy as such was new, its intent and much of its import had been basic to work with ADC families for many years. Its purposes were: (1) to redefine and re-emphasize the importance of suitable family life; (2) to underline agency responsibility in relation to maintenance of suitable family homes of children who receive ADC; and (3) to reinforce the opportunity of the economically deprived child to develop to the extent of his ability.

The provision sought to bring into better focus thinking concerning agency and parental responsibility for assuring to children as sound family life as possible. It also proposed to refine practice in the area by setting guide lines for workers and parents.

Unsuitability as envisioned in this provision cuts across areas of deviant behavior of parents relating to the wel-

fare of their children. Physical abuse, willful neglect, and sexual promiscuity resulting in undesirable patterns of social behavior affecting adversely the moral environment of children were some of the criteria.

Under the suitable home provision, it was mandatory that workers look at the environment of children at the time of application, review, or at any time a situation of unsuitability appeared to exist. In these instances, workers were required to talk to parents about what they could and would do to correct the situation and to explain what the agency could do. A date was then set for an evaluation when parent and worker would again look at the situation and together decide upon next steps which each would take to improve the unsatisfactory conditions.

Preserving and strengthening family life for children was the goal inherent in the suitable home provision. When it was deemed necessary, however, provision was made for consideration of plans for children apart from parents. This was, in some instances, the result of mutual planning of worker and parents or, in other instances, the decision reached by the court.

An opportunity to examine further Alabama's suitable home provision and its application under controlled circumstances was important at this time in the agency's history. While Alabama had never had legislation enacted relating to aspects of unsuitability, such measures had been introduced in the past.

This project was proposed as an effort to demonstrate the agency's interest in a constructive approach to the problem of ADC children who were living in homes which were currently considered to be unsuitable.

The fact that the ADC program had been under attack throughout the country because of questions centering

around the unsuitability of the home indicated that other sections of the country might also profit by the results of this project.

Plans and Methodology

Location of Project and Project Staff

Dallas County was selected for the project. The project staff at the county level consisted of a project director, 2 caseworkers, and one clerk-typist II. Members of the project staff devoted full time to the project and were relieved of all other responsibilities.

The Project Director had full responsibility for directing and supervising the project at the local level. She conferred frequently with the Advisory Committee on any matters on which she needed advice and counsel. It was anticipated that she would familiarize herself with any new literature in the field which was related to the project and attend some conferences or institutes which were particularly pertinent to the project.

The Advisory Committee for the project consisted of the Director, Bureau of Research and Statistics; Director, Bureau of Public Assistance; ADC Consultant (Bureau of Public Assistance); Administrative Assistant; Director, Bureau of Child Welfare; the Field Representative for Dallas County; the County Director; and the Training Supervisor. The ADC Consultant and the Director of the Bureau of Research and Statistics assumed

primary responsibility for planning the project with the advice and counsel of the Advisory Committee. It was agreed that the Project Director and the Director of the Bureau of Research and Statistics would assume responsi-

bility for summarizing and analyzing the findings. The Advisory Committee was available for advice and counsel.

Selection of Cases for Project

The entire ADC case load was reviewed by workers currently on the job in this particular county for purposes of identifying cases where ADC children were living in homes where conditions were currently considered to be unsuitable. The cases were referred to the project for purposes outlined above.

One hundred families were referred to the project by the Dallas County workers during July 1962. Each of the two caseworkers on the project was assigned fifty cases. Through the course of the two years, as some cases were closed, twenty-eight additional families were referred to the project at the time of application at intake.

Recording and Statistical Tabulations

The usual record keeping procedures were used for all cases included in the project. In addition the schedules as shown in the Appendix were used for the purposes as indicated below:

Schedule I—Description of Families and Children at Beginning of Project.

Schedule form with reference to *Characteristics of Families Receiving Aid to Dependent Children* was prepared at point at which case was referred to the project and used by State office in tabulating data with reference to the characteristics of families and children included in the project.

Schedule II—Identification of Problem Areas and Service Action Record.

This schedule was filed in case record for use of worker and Project Director.

Schedule III—Summary of Problem Areas and Service Action Record.

This schedule form was submitted to the Bureau of Research and Statistics for tabulating purposes. There were two occasions on which this summary sheet was prepared prior to the close of the project—when the project case was closed or when the project case was transferred to some other county in the state. Otherwise, the summary sheet was prepared at the end of the project period.

Supplementary information with reference to certain specified characteristics of the families and children at the end of the project.

Statistical tabulations were prepared in the State office based on information as given on the above schedule forms. It was planned for case stories to be used to supplement the narrative summary and the statistical tabulations.

Available Facilities

Any facilities of the State or County Department of Pensions and Security which could be appropriately used to expedite the work of the project were made available.

It was anticipated that Dallas County would provide an atmosphere of cooperation and enthusiasm in making available community resources, etc.

Previous Work As Related to Project

This project constituted Alabama's first attempt to examine the effectiveness of its suitable home policy in a controlled situation. Some of the previous studies and/or projects conducted in the State, however, had explored some aspects of the proposed project. For example, there were earlier studies with reference to the *Characteristics of ADC Families and Children.* Alabama also had conducted another ADC project. The focus and general plan of the two projects, however, were quite different. Also, following the amendment to the Social Security Act which provided specifically for the service aspect of the Public Assistance Program, the agency developed a plan for the *Assessment of the Service Plan.*

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Results Obtained by Others

Some of the studies conducted by other States relating to certain aspects of the problem posed in Alabama's project were as follows:

1. Preliminary Report, *Suitable Home Law,* released September 1960, by the State Welfare Department of Florida.

2. *Facts on Aid to Dependent Children in North Carolina,* released by State Department of North Carolina in March 1959.

3. *What About These Children?* (A study of children removed from aid to dependent children rolls) prepared by Mississippi Children's Code Commission, Jackson, Mississippi, in 1958.

4. *A Follow-Up Study of Fifty Unmarried Negro Mothers in Active Aid to Dependent Children Cases in the Marion County Department of Public Welfare, Indianapolis, Indiana,* released November 1957.

5. *Report of Shelby County ADC Project July 1, 1957—June 30, 1959*—Tennessee Department of Public Welfare.

All these studies and/or projects were reviewed and some helpful ideas gleaned from them.

The Tennessee study was particularly helpful. The purpose, general plan, and focus of this project were quite different from the one used for Alabama. Their schedule forms and plans for tabulation were basic, however, to a study of this type. The material was, therefore, particularly helpful and the schedule forms, plans for tabulation, etc., for Alabama were in some instances an adaptation of those used in Tennessee.

Professional Education and Experience of Project Staff

Project Director

The Project Director was a trained, experienced social worker who had recognized skills in the areas of prevention and rehabilitation, particularly in working with children and their families. She had long years of experience in supervision and social casework at both the State and County levels.

She served on many committees—local, State, and National. She was chairman of the American Public Welfare Association's *Committee on Services to Children* and was on the *Alabama Commission on Juvenile Court Legislation.*

Caseworker No. 1

This caseworker had a Master's Degree in Social Work and long years experience in public welfare work.

Caseworker No. 2

This worker was an experienced social worker who had demonstrated some skills in working with children and their families.

Advisory Committee

Not only did the project staff consist of skilled professional staff but also the Advisory Committee was of a high professional calibre. Most had a Master's Degree in Social Work and long years of supervisory and administrative experience in public welfare—representing areas of public assistance, child welfare, and research.

Background Information With Reference to Dallas County

The County and Its People

Dallas County is situated on the Alabama River in central Alabama. It has a land area of 976 square miles and is the eleventh county in size in Alabama and tenth in population.

Population data based on the 1960 Census are as follows:

Population Classified by Rural and Urban

	Number	Percent
Total Population	56,667	100.0%
Urban	28,385	50.1
Rural	28,282	49.9

Percent Increase in Total Population from 1950 to 1960

	Percent Increase
Total Population	+ 0.7
Urban	+24.3
Rural	—15.4

Population Classified by Race

	Percentage Distribution
Total	100.0%
White	42.3
Non-white	57.7

Population Classified by Age

	Percentage Distribution
Total	100.0%
Under 18 years	43.8
18 to 64 years	47.4
65 years and over	8.8

Industry and Labor

The economy of Dallas County was originally based on agriculture. Until the middle 1940's, almost 90 percent of its 624,690 acres was farm land used chiefly in the raising of cotton. As a result, a large percentage of the population was composed of non-white agricultural laborers.

In recent years, important changes have occurred causing the displacement of a substantial number of these agricultural laborers. Examples of such changes:

1. Mechanization of crop farming method.

2. Controls limiting acreage of basic crops resulting in large acreages of farm lands being converted to pasture lands and the raising of cattle.

These changes have created a surplus of non-white labor in the county.

Communities in the County

(a) Selma with a population of 28,385 is the only town or city of any size in the county. In the early days, Selma was an important shipping center for cotton grown in the surrounding rural area. It is still the trade center of this area.

There are now a number of small industries located in the vicinity of Selma.

Craig Air Force Base is located on the outer edge of the city. This base, established in the early '40's, has brought some new opportunities for civilian employment but has also brought with it an increase in population and many additional problems for the community.

(b) Orrville with a population of 422 is the only other incorporated municipality in the county.

(c) There are a number of other very small communities in Dallas County—Safford, Plantersville, Carlowville, etc.

Welfare

The Dallas County Department of Pensions and Security is the only welfare agency in the county other than agencies such as the Red Cross.

Churches, clubs, city and county governing bodies, and civic groups in the county are quite active, particularly in

Selma, and are most cooperative in providing additional services whenever possible.

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Chapter II

Characteristics of Families and Children Referred to the Project

Children and their families referred to the project were those Dallas County cases of ADC children who were living in homes where conditions were currently considered to be unsuitable. These were culturally deprived children in homes with serious problems. Many families had a background of poverty for generations.

The characteristics of these families and children at the time they were referred to the project are summarized below:

Race of Families

Twenty-one of the families referred to the project were white and 107 were Negro, making a total of 128 families representing 493 children.

Place of Residence

Seventy-four of the project families lived within the limits of the City of Selma, while the other 54 families lived in the rural areas of the county.

Length of Time on ADC

Referred to the project were 108 families receiving ADC payments and 20 families whose applications for ADC were denied. Twelve of the 108 cases were opened on or after July 1, 1962. The length of time the other families had received ADC prior to this date varied from less than

6 months to 10 years or more. For these cases, the median length of time since most recent opening was 2.1 years.

Of the 128 project families, 23 (including 3 families whose applications were denied) had received ADC previously. Eighteen had received this type of aid once before; 2 had received it in two earlier periods; and 3 in three or more earlier periods.

The Father of the Children

All information given in this report relating to the father of the children is based on only one father per family; i. e., the father whose death, absence, or incapacity deprived the children in the family of parental support or care.

In instances in which there were different fathers of different children in the family, information is given in terms of the father of the greatest number of children; in cases of equal division, information on the father of the youngest child is used.

Status of the Father with Respect to Eligibility of Children for ADC

Death of the father accounted for the need of nearly 9 percent of the project families. In about 15 percent of the families, the father was incapacitated. The majority of the project families, however, were needy because of the father's absence from the home. In nearly 36 percent of the families, he was not married to the mother. He had deserted the family or was divorced or separated from the mother in about 33 percent of the families. Three percent of the families were needy because the father was in prison and in less than 2 per cent because he was absent for other

reasons. Three percent of the families were deprived of care or support because of the death, disability or absence of the mother rather than the father.

Whereabouts of the Father

The father was in the home in nearly 15 percent of the families. In about 9 percent he was dead and in the rest of the families he was absent from the home, with his whereabouts unknown in almost 23 percent of the families.

Occupation

More than 53 percent of the fathers were unskilled laborers and nearly 19 percent were farm laborers. Only about 3 per cent were in "white-collar" occupations and about 5 percent in the better type industrial jobs—craftsmen, foremen, and kindred workers.

Education

Because so many fathers were absent from the home, information relating to education of the father was available only for the incapacitated fathers.

Of these 19 incapacitated fathers, 14 had 8 years or less of schooling. This, of course, may not be representative of the fathers in the remaining project cases.

The Mother of the Children

Status of the Mother

In nearly 12 percent of the project families, the mother was not in the home. In almost 5 percent of the families, the mother was dead, and in about 4 percent she had deserted the children. She was in a mental institution or absent for other reasons in 3 percent

of the families. The mother was present in the home in 88 percent of the families.

Over 49 percent of the mothers were in the home and employed—17 percent full time and 32 percent part time. Another thirty-nine percent were in the home but not working outside the home because they (1) were needed in the home to care for the children (about 15 percent); (2) had no marketable skills (3 percent); (3) could find no work (nearly 6 percent); (4) were physically or mentally unable to work (14 percent); or (5) because of other reasons (less than 2 percent).

Occupation

Nearly one half (44 percent) of the mothers were service workers. Almost 19 percent were unskilled laborers and about 10 percent were farm laborers. Over 10 percent had never held full-time employment.

It is obvious, therefore, that the mothers in the project families were concentrated heavily in those occupational groups in which requirements for training and education are at a minimum, remuneration is low, turnover is high, and there is little economic security. This finding substantiates the finding of generally low educational attainment, as noted below. It also underscores the difficulties faced by these mothers as they attempt to achieve economic independence for themselves and their children when the father is out of the picture or unable to help.

Education

Information with reference to the number of years of schooling completed by the mother was obtained for the 113 mothers who were in the home. The information revealed that nearly 43 percent of these

mothers failed to complete elementary school while about 45 percent completed the 8 years of elementary school but did not finish high school. Less than 13 percent of the mothers had as much as a high school education.

The Housing Unit

All of the project families lived in single rooms or groups of rooms occupied or intended for occupancy as a separate living quarter. The majority of the families —88 percent—were renting their homes. Only about 8 percent of the families owned or were buying their homes. For nearly 4 percent, no cash rent was involved.

The degree of crowding is a significant measure of the adequacy of housing. It is generally said that homes with an average of more than 1 person per room are moderately crowded and that homes with an average of more than 1.5 persons per room are seriously crowded.

The number of rooms in the home was not available for 26 of the project families. Of the 102 families for whom this information was available, only 15 lived in homes with an average of 1 person per room or less. The other families lived in more crowded conditions. For the 102 families, there was an overall average of 1.93 persons per room. The number of persons living in the household by the number of rooms ranged from 2 persons living in 5 rooms to 20 persons living in 2 rooms.

Other Assistance to the Household

In 19 of the project families, other persons living in the household (those not included in ADC assistance groups) received some type of public assistance. In 12 cases there was an OAP payment and in 5 an APTD payment. In 1 case the person received an AB payment and in another an additional ADC payment was received.

Financial Data

The amount of requirements according to agency standards for the 108 active

ADC families included in the project averaged $175.62. They had an average income of $31.78 plus an average ADC payment of $52.04, leaving an average unmet need of $91.80.

Approximately 31 percent of these families had no income other than the ADC payment. For those who did have other income, the greatest sources were earnings of the mother and income in kind to which a money value was given.

The Children

There were 493 children plus 1 unborn child counted as recipients in the project families.

Race

Sixty-eight of the 493 children were white and 425 were Negro.

Age

Of the 493 project children, the largest group (nearly 43 percent) were between the ages of six and thirteen. Thirty-nine percent of the children were less than six years of age, while about 18 percent were thirteen and over.

Legitimacy Status

Sixty-six percent of the children were legitimate and 34 percent were illegitimate. Only 5 of the 68 white children were illegitimate, while 162 of the 425 Negro children were illegitimate.

ADC Status When Child Was Born

The mother of 13 percent of the project children was receiving ADC when the child was born. There was no significant difference between the proportion of illegitimate children whose mothers were receiving ADC and the proportion of legitimate children born into ADC families.

School Attendance

Of the 299 project children who were 6-17 years of age, over 88 percent were attending school. The other 12 percent were not attending school because they were physically or mentally incapacitated, they were too young at the beginning of the school year, or because of other reasons.

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Physical and Mental Impairments

One hundred and nine of the 493 project children (22 percent of the total) were known to have one or more physical or mental impairments. Over 9 percent of the children had dental impairments and about 8 percent had some visual defect. Four percent of the children suffered with emotional or other nervous disorders and another 4 percent had orthopedic impairments. Some of the other impairments were mental retardation, hearing impairment, speech defect, and heart abnormality or rheumatic fever.

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Chapter III

Identification of Problem Areas

During the period of the project, 2,214 problem areas were identified in the 128 project families. The number of problem areas identified in each of the families ranged

from as few as three to as many as 40. There were three families with only three problem areas each, while one family had problems in 40 different areas. From seventeen to eighteen problem areas were identified in the typical project family.

Thirty-two percent of the 2,214 problem areas identified related to financial problems, including employment. Twenty percent related to health problems and 14 percent related to behavior problems, largely those of adults. Problems relating to inadequate living arrangements and care accounted for over 10 percent of the areas identified; relationships, nearly 10 percent; education and vocational training, almost 8 percent; and recreation, 6 percent. (See table on page 19.)

The need for help in meeting unmet financial expenses was the major financial problem identified in the project families. Other problems in this area were the need for job placement and the need for agency counselling regarding the problems. These financial problems are more understandable, of course, when it is recognized that these families represented a group of people who had been victims of many social ills and had operated on a low economic level for generations. It was observed that 94 of the 128 families had relatives in the family background who had received some type of public assistance over a period of years. It is interesting to note, however, that only 17 of the parents in the 128 families had received ADC assistance as children in their family groups.

Physical illness or handicap was the most frequent problem identified in the area of adult health. The next greatest number of problems grew out of the emotional maladjustment of an adult.

The need for immunizations accounted for the largest number of problems in

the area of child health. It is believed that this problem was due mainly to the lack of understanding on the part of parents of the importance of preventive measures of health facilities rather than the lack of facilities available. Another frequent problem in the area of child health pertained to the physical illness or handicap of the child.

In the area of adult behavior, unmarried parenthood accounted for the greatest number of problems. Desertion or abandonment of family, child neglect or abuse, and marital conflict also were listed as problems in this area.

Behavior beyond the control of parent or person acting as parent and undesirable associates accounted for the greatest number of problems in the area of child behavior. The fact is interesting that there were only 5 incidents of stealing in the group of 493 project children. Since "stealing" in this situation represents the more concrete example of juvenile delinquency, it is recognized that the low rate of juvenile delinquency in these ADC families is in line with the findings of the 1960 national ADC study reported under the caption *American Dependency Challenge.* It is further recognized in the national study that enough facts are known to indicate that the delinquency rate among ADC children is far below the national average. As implied elsewhere in the narrative report, it is believed that this fact indicates the strength of family ties and the real value to be found in a program which assures that a child can remain in his own home.

A large number of the project families were living in undesirable neighborhoods or in overcrowded housing. These accounted for the majority of the problems identified in the area of inadequate living arrangements.

The inability to accept responsibility was the main problem in the area of relationships.

For the children, the greatest number of problems identified with education and vocational training pertained to the unsatisfactory school progress or irregular school attendance of one or more children in the family. For the adults, there was most often a need for training for a trade within present mental and physical ability.

The lack of appropriate recreational outlets was the major problem in the area of recreation.

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Problem Areas Identified Classified by Type

Type of Problem Areas	Problem	
	Number	Percent
Total	2,214	100.0%
Financial, including employment	708	32.0
Health:		
Adult health	214	9.7
Child health	233	10.5
Relationships	213	9.6
Adult behavior	268	12.1
Child behavior	44	2.0
Education and vocational training:		
For a child	131	5.9
For an adult	42	1.9
Inadequate living arrangements and care	227	10.3
Recreation	134	6.0

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Chapter IV

Services Provided

During the project, at least one service action was initiated for each problem area identified in the project

families. A total of 2,373 service actions were initiated for the 2,214 problem areas identified.

Of the 2,373 service actions initiated, nearly one-fifth (18.1 percent) were completed—that is, the purpose of the service action was accomplished. Over half (50.7 percent) of the service actions were discontinued for various reasons. Many of these were referred to other agencies and services. The remaining service actions (31.2 percent) were still in progress at the end of the project. The large percentage of service actions which were discontinued may be accounted for, in part at least, by use of other community resources, because of intensive service given to the restricted number of cases, and because 67 cases were closed at the end of the project.

Over two-thirds (70.6 percent) of all service actions represented the direct action of the worker to assist the client and 2.1 percent represented the worker's efforts to make use of other agency resources in aiding the client. Nearly 22 percent of the service actions consisted of referrals to State and community resources and support of the clients in the use of these resources. Almost 6 percent represented the worker's efforts toward community participation and planning for services. The largest number of direct worker actions consisted of workers' efforts to reinforce and sustain the basic family relationships and the ready acceptance by families of support from the agency in maintaining and strengthening family life. Two observations should be made here which are important in terms of future dependency. It was noted that other than the direct service efforts of caseworkers to maintain and strengthen family life, the largest number of referral services was in relation to health and school areas. This fact indicates the great need in these two areas and the importance of ADC workers giving maximum service.

It is important to discuss more specifically the 41 juvenile court services and the 32 other court services. The 41 juvenile court services represent custodial proceedings in cases where such hearings were indicated for the further protection and security of the children. Decisions involved return of custody of children to their parents and transfer of custody to relatives. In some few instances parental rights were terminated with the view toward adoption planning. These juvenile court hearings also involved cases of neglect on the part of parents. The hearings were meaningful and the positive approach valuable in helping parents to be aware of and to assume more rightfully their responsibilities.

The other court referrals included cases of legitimation of children, non-support, and one bastardy proceeding. The County Court which handles non-support cases in this locality was helpful in enabling parents to assume their rightful responsibility in the support of their children.

The table on the following page gives the number of service actions classified by type and by status at end of project.

Number of Services Classified by Type and by Status at End of Project

Status of Service Actions	Total		Type of Service Actions: Direct Action of Worker to Assist Client		Use of Agency Resources		Use of State and Community Resources		Community Participation and Planning for Services	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	2,373	100.0%	1,676	100.0%	51	100.0%	509	100.0%	137	100.0%
Completed	430	18.1	156	9.3	9	17.7	262	51.5	3	2.2
Discontinued	1,203	50.7	967	57.7	12	23.5	157	30.8	67	48.9
Continued	740	31.2	553	33.0	30	58.8	90	17.7	67	48.9

Chapter V

Status of Families and Children at Close of Project

At the end of the project, nearly one-fifth (19.2 percent) of the 2,214 problems had been solved. Evidence of the greatest amount of success was found in the area of health, with one-third of the problems corrected.

In 46.7 percent of all areas identified, the problem was still in existence at the end of the project, but some improvement had been made. About two-fifths of the problems partially solved were in the area of financial need and employment.

In 34.1 percent of the problem areas, no signs of improvement were evident at the end of the project. Nearly 14 percent of the problems remained as they were because the proper resources were not available and about 8 percent remained because of the clients' attitudes. (See table on page 26.)

The results in this area are not as discouraging as the figures seem to indicate. This is particularly true when it is recognized that these families had hard-core problems which had existed over a long period of time. Frequently, intensive work over a long period of time is necessary before any improvement or solution can be noted. For example, almost two years' time was involved in helping one father follow through on the doctor's recommendation for an operation. With the help of the caseworker, this father was able to work through some of his fears and apprehensions and have the operation. Today, that father is able-bodied and will be able to assume his full responsibility. It is also recognized that the workers were probably conservative in reporting problems partially or totally solved until more tangible evidence could be observed.

Status of the Father

At the end of the project, the children in over 14 percent of the families were no longer deprived of the support or care of a father or father substitute. A comparison of the status of the father at the time of referral to the project and at the end of the project is given in the following table:

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Status of Father	Percentage Distribution At Beginning of Project	At End of Project
Total	100.0%	100.0%
Dead	8.6	11.7
Incapacitated	14.8	12.5
Absent:		
Divorced or legally separated	6.3	6.2
Separated without court decree	13.3	10.2
Deserting	13.3	7.0
Not married to mother..	35.9	35.9
Imprisoned	3.1	1.6
Absent for other reasons	1.6	.0
Other status	3.1	.8
Children no longer deprived of the support or care of father or father substitute	xx	14.1

In the above table, information is given in terms of the status of the father on whom eligibility for ADC was based. Frequently, however, there was more than one father per family. The actual count of fathers in the 128 families was 257. Over half of the families had more than one father. The number of fathers ranged as high

as ten per family, with the multiple-father families averaging 2.9 fathers each.

Whereabouts of Father

At the end of the project, the father or father substitute was in the home in 33 (25.8 percent) of the families as compared with 19 families (about 15 percent) at the beginning of the project. The whereabouts of 15 fathers was still unknown at the end of the project, although the identity of all 15 had been established. No clues existed as to the 15 fathers' whereabouts, as the mothers had had no contact with them since the birth of the children. The whereabouts and physical condition of the fathers affected the eligibility of the children. In the majority of families, however, fathers were known and the relationships with their families were meaningful ones.

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Requirements, Income and Unmet Need

The project families had an average income of $49.28 at the end of the project as compared with $31.78 at the beginning of the project. This increase was the result of the workers' efforts in helping the mothers secure employment and in obtaining contributions from absent fathers. The following table gives a comparison of the financial situation of the families at the beginning and end of the project:

	Average Amount Per Family	
	At Beginning of Project	At End of Project
Requirements	$175.62	$169.93
Income	31.78	49.28
ADC payment	52.04	44.77
Unmet need	91.80	75.88

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Status of Problems at End of Project

Status of Problem	Problems Identified	
	Number	Percent
Total	2,214	100.0%
Problem Corrected	424	19.2
Problem remains with improvement	1,035	46.7
Problem remains without improvement because of:		
Chronic nature of problem	72	3.3
Client's attitude	170	7.7
Proper resources not available	300	13.5
Clients' moving out-of-state	55	2.5
Failure of out-of-state agency and court to follow through	7	.3
Inability to secure sufficient information to follow through	7	.3
Other	144	6.5

Chapter VI

Case Work Skills and Techniques

The philosophy and principles of the Alabama program are based on a heritage and background of public social services to children centered on preservation of the child's own home whenever feasible and provision for the best possible substitute care otherwise. This philosophy and these principles constituted the backdrop for project workers against which case work skills were utilized and techniques or ways of working effectively with parents and children were sought out and tested.

It was necessary for the project staff to re-sharpen skills and techniques and to use conscious efforts to improve work habits. They faced a sharp transition from undifferentiated public assistance caseloads of from 400

to 450 cases and the necessity of meeting review deadlines and clearing applications promptly, to the reduced loads of 50 and the demand for intensive service.

The workers learned to make the necessary adjustments. Having time to give thoughtful consideration to the content of the record in relation to the individual was a significant experience for the worker. Even ways of reading the record in this manner had to be learned or reviewed. Basic principles of interviewing, communication, and establishment of relationships had to be reviewed and refreshed; knowledge of the needs of children had to be studied; and proper utilization of time to think about planning with a family had to be mastered.

Project workers soon learned, also, that a caseload of 50 was not a Utopia. As the workers, through refreshed knowledge of casework principles and procedures, came to see children and parents as individuals and to see more clearly the conditions in which they lived, more problems became apparent. The number "50" soon became identifiable with the number of problems in a family rather than the number for a caseload.

Because of the need for specialized skills in the use of certain child welfare services, the workers had to begin a learning process related to specific child welfare programs. This learning process was reinforced by: the project director, whose experience had been in the field of public child welfare services; consultant services

from the child welfare workers on the local staff; consultant services from the State Department, including child welfare staff and the Aid to Dependent Children Consultant in the Bureau of Public Assistance; and in-service training groups.

For the reasons stated, intensive supervision and opportunity for learning were afforded workers, though the extent to which this was necessary varied with the individuals.

The initial plan of supervisory conferences began with weekly group conferences of the three social workers on the project together with weekly individual conferences between the caseworkers and project director. These conferences were supplemented with unplanned conferences as the need arose. Having a controlled caseload and only two caseworkers for one supervisor made it possible to give more individual supervision than would have otherwise been possible.

In addition to the day-by-day learning on the job, the project staff had opportunities to participate in other learning activities. They participated in several institutes in Alabama concerned with all aspects of social work principles and techniques. Leaders for two of the institutes were Dr. Dorothy Aiken, Professor of Casework at the University of Chicago, and Florence Sytz, Professor Emeritus of Tulane University. Two workers attended the Southeastern Regional APWA Conference; the project director attended the APWA Biennial Round Table Conference in Washington and an institute in New Orleans sponsored by the National Association of Juvenile Court Judges and APWA.

In addition to the special institutes and conferences, there were the Alabama Conference of Social Work; planned in-service training groups by the training staff at the State Department; and planned in-service training group meetings at the local level. Quarterly meetings with the clinical psychologist at the local Mental Health Clinic afforded additional learning experiences which were invaluable to project staff. These conferences centered on the meaning of deviate behavior, importance of

relationships and communication, etc. The project staff also participated frequently in local agency staff meetings, both in the planning area and in presentation. One of special

interest was the detailed study and review in several staff meetings of the recent AFDC study—*American Dependency Challenge.*

The intensive training and study facilities available to the project staff resulted in the recognition that workers having responsibility for helping children and their families to improve the conditions under which they grow up must have time to study and an opportunity to grow continuously in the development of knowledge and improvement of skill. To this end, project workers took advantage of the many opportunities to read books and articles relating to the field of social work.

As the work of the project proceeded, workers learned that project families had no overt reactions to the more frequent contacts with the project workers. The purpose was to help the clients accept this change of more frequent contacts through value received. Workers soon learned if they were able to express sincere interest in and concern about the family's problems and to give them time to talk about their hopes and fears and difficulties, a minimum of anxiety would be aroused. Only in a negligible number of instances did a client ask why a neighbor's worker did not come to see him more often. Two examples are typical of the reactions. One family's ADC check had been discontinued when a substitute father moved into the home. The case was kept open for other services, however, because of the many problems. The client said to the worker, "Please keep me on, Mrs. ..... You all sure do help me even if you don't

send me any money." Another person had had a difficult time accepting Vocational Rehabilitation Service referral because of fear of a necessary operation. He finally did so with the help of the worker and, as a result, experienced great satisfaction in being restored to independence. This person said of one project worker, "I like Mrs. ..... You know exactly where you stand with her."

It has been interesting to observe that several families in the closed cases group have returned to the agency to request specific services rather than money. In one instance, an ADC mother who had been helped to become more stable, married and achieved for herself and children independence and wholesome family life. She later

called the agency to offer her home as a foster family day care home. She had seen an article in the paper describing the agency's need for foster family day care homes. When offering her home, she explained that the agency's services had been so helpful to her that she, in turn, wanted to help another family.

Project workers had many opportunities to discover for themselves the importance of preventive case work services. Their conviction, for example, that concern for the drop-out should begin with the pre-school and elementary school child, not the 14-16 year old group, was reinforced and appropriate services were offered. Two examples illustrate this point: In one case a limited mother told the worker she would start her youngest child to school when he became six years old. He was eight years old at the time and had never been enrolled in school. In this instance, the worker helped this mother to accept the fact of the child's age, to release him from the infantile environment, and to recognize his need for contacts with children of his own age.

In the second case, a ten year old child's intelligence was being questioned on the basis of his low academic achievement. The worker had good reason to believe that frequent absences, no books and supplies, no lunches, inadequate clothing, and poor home conditions were major contributing factors. She set about helping these parents in simple, everyday ways—attention to health, routine of meals, budgeting. With her encouragement and the co-operation of a concerned and interested teacher, this boy settled down to regular attendance. His academic performance may now be characterized as above average. He is not only keeping up with his grade level, but he is also making good grades; and he is making up some of the earlier work he had missed. Formerly he was truant on frequent occasions; now he likes school and does not want to miss a day.

Day-by-day services to families and children point up the need for dedicated, tough-minded, courageous workers who are able and willing to start where the family is; see the parents and children as individuals; move at their pace; agree on one or more goals, however limited they may appear; and work steadily with family members

as they move toward a more constructive way of life. These services highlight the urgent need for the full co-operation and coordination of child welfare and family services within public and private agencies and full and effective utilization of all appropriate services available in related public and community agencies.

The imaginative but practical caseworker, who effectively utilizes casework skills and techniques, is a valuable source of information regarding areas where further study is needed and has much to contribute to the staff development program. Because of her key position with

ADC families, the public welfare agency, and the community, she knows public thinking and community interests and so is able to communicate to administration current needs and trends and to share with administration responsibility for planning and setting of goals.

Chapter VII

Community Resources

One area which has been too frequently neglected by practitioners in public assistance has been community contacts—with individuals, groups and related agencies. Frequently, in the past, time would not permit more than a cursory interview with a reference to verify points of eligibility. As the project workers participated more in meaningful interviews with references, in civic, church, and study groups and with related agencies, it was found that the workers came to know ADC families better and the references and other groups came to know the agency better. In many instances, references and other groups became more accepting and understanding of the problems of people. It was observed that the same people who sometimes had hostile and condemning attitudes on situations in general would change to compassionate and understanding attitudes in specific situations. It was the project staff's conviction that more interpretation through specific situations is increasingly needed and can be accomplished without violation of the confidentiality principle.

The project workers came to know many people in the community. While work in this connection could hardly be more than started during project time, enough was done for the project workers to be known to key community persons, such as landowners, storekeepers, county commissioners, school officials, ministers and many others.

People "on the ground" know ADC families as they live and move in their communities.

The experience on the project reemphasized the wealth of resources in the community and the need for a high caliber of social services and professional performance by social workers. It was recognized anew that the business of helping people is everybody's business and only as social workers continuously improve their professional knowledges and skills can they become more in the community than kindly, well-intentioned neighbors; that both the social worker and the neighbor are needed in the community but they can complement each other properly only as they operate within their own level of competence.

Time is an important factor in community participation. Just as it takes time to have meaningful interviews with a client, it also takes time to establish a relationship and communication with individuals in the community.

In Dallas County, though there is no general relief fund, the county has an inadequate and limited temporary aid fund. The County Department of Pensions and Security is the only family and children's agency in the county. It, therefore, becomes necessary to rely on individuals, groups, and other private media for any "extras." In cases where emergencies arise, groceries are needed, eviction becomes imminent, or medicine is needed, the workers must depend on private donations. Through resources in the community, the county department for some time has had a small private fund but must make a constant effort to build up the fund in various ways in order to meet a limited number of emergencies. The project workers made special effort to interpret the need in this area and were able to get money for various needs of clients through churches and their auxiliary organizations, civic groups, study groups, and individuals. Project workers

found that church groups in the community were particularly helpful. Substantial donations of money were given to the agency for a group of cases in the project where specific needs were pointed up. It was realized anew that there is a wealth of resources in church groups. While the church groups may like to have direct contact with the client, it is possible, with time and careful planning, to direct this interest into more helpful channels. The church is a powerful force in the community. Social service agencies are in a strategic position to help churches organize and carry out their social service programs. Equally as important as the monetary contribution is the understanding on the part of the lay public of the problems which many ADC families face day by day.

The Director of the County Department had requested on previous occasions allocations from the City and County governing bodies for general relief needs to augment the small private fund the agency maintains. It is possible that a partial allocation will be secured in the near future; it is hoped that with further intensive interpretation of need, adequate allocations from these sources will be made.

The Director also requested an allotment from the United Community Services Fund. The project workers prepared information on case situations which the Director used to illustrate need for additional funds. While the request was turned down for the current year, it is anticipated that as further need is demonstrated, this channel, too, may be opened up as a means of providing help to more people.

The Juvenile Court proved helpful in project cases involving neglect. The purpose of most of the hearings was not directed toward removal of children from their homes. It was learned that the court can be used effec-

tively to strengthen natural family ties. The method was used to let the particular parents know that the best interests and protection of children are not only their responsibility but the responsibility of the community, looking to the court as a reinforcement of their efforts. In these hearings, the judge and social worker tried to build on the strengths of existing family ties; to assume the parents' desire for wanting better things for their children; and to explore practical ways whereby these desires and responsibilities could be carried out. Effort was made to have the parents participate with the judge and social worker. It was interesting to note that in most instances when this was done, the parents could more clearly see the responsibilities which they must assume. In some of these hearings, persons interested in the family were present.

The significance of the project's community activities was in the ground work done rather than in actual accomplishment. In several areas the project staff worked closely with individuals and groups in communities in providing "extras" for ADC families: Easter clothes, graduation needs, and other similar items. In one family, a civic club became interested in giving an ADC mother a business course which will enable her to increase her earnings. In several other families, "volunteers" provided a type of "homemaker" service which helped an ill mother provide physical care for a handicapped child, and in another, training and supervision for an adolescent girl where there is no mother in the home. School books and supplies were given by individuals and groups in several instances. In some of the families, jobs were

secured for older boys where they could get more help than monetary benefits. For example, the YMCA employed one boy on a part-time basis. The YMCA director

worked with the project worker and, through better knowledge of the boy's needs, the director was able to give the boy a great deal of help in improving his physical appearance, in making social contacts and communication, and in learning spiritual and moral values. Some storekeepers in rural sections helped ADC mothers to buy substantial groceries, gave surplus supplies to them, and made general suggestions for better management in certain situations where such help was requested by the client.

School principals in several instances employed ADC mothers at the school and others worked out arrangements for children to receive school lunches. Some employers of ADC mothers and handicapped fathers were helpful in getting family members to the doctor and health department and in providing school clothing for children. In several families, neighbors were helpful in performing a variety of services for ADC mothers limited in intelligence and education.

The project workers also participated in exploring need for day care facilities. They assisted the County Director in initiating and meeting with lay groups in an effort to motivate individuals and groups to recognize need for day care centers and foster family day care homes. Project workers were able, through their knowledge from community contacts, to recommend potential foster family day care homes and to place children from ADC project families in foster day care homes. This is an area in which more intensive work is needed both in arousing community interest and the interest of caseworkers to develop and use more extensively day care facilities.

A great need in the community for small training units for domestic workers was pointed up. In attempting to help mothers to find jobs in order to supplement their ADC checks, it was recognized that many persons needed training in basic housekeeping procedures such as opera-

tion of home appliances, answering telephone, preparation of meals, and child care duties. Project workers had conferences with the superintendent of education, school principals, directors of adult education, and with key persons in the community who were interested in participating in individual training of domestics supplemented by organized teaching groups. The groundwork done in this

area should stimulate further development in this direction.

There is no organized Legal Aid Society in Dallas County although individual lawyers give generously of their services. A committee of the local bar association interested in legal aid service has been reactivated and it is believed that work in this connection will bear fruitful results. Through more specific knowledge of family relationships, the project workers realized anew the social implication of legal involvements in problems such as marital status, divorces, custodial rights of children, and property rights. It was further recognized that the interpretation by the social workers of social factors to courts and attorneys is important and frequently nets excellent results.

The County Farm Agent proved to be a helpful resource in acquiring more knowledge in the area of farm work and management. He furnished information about the amount of acreage which families of specific sizes can handle and the work available between crop seasons.

School teachers and principals cooperated in the social workers' efforts to help ADC families take advantage of educational opportunities. This made a more marked impression because in many instances there was so little financial resource for many necessities. Many teachers and principals gave not only of their time but provided

money out of their own pockets in making available lunches, clothes, books, and supplies.

The observation of the school teacher is invaluable in pointing up social and other needs of individual children. Next to the family group, an observing and understanding teacher can more quickly identify individual needs of children. Teachers see children operate in a controlled but natural setting and from this angle can frequently spot emotional disturbances, deviate behavior, retardation, physical handicaps and illnesses, and scores of other needs which show up in their day-by-day observation. This close working relationship of the teacher and social worker is an important means of identifying potential drop-outs at an early stage.

Project workers were impressed anew with the significance to the agency and to

recipients of effective cooperative working relationships with all representative related agencies. Proper referral plus careful follow up with the recipient and related agency were seen as the keys to practical, helpful service to the client. Because caseloads were limited, project workers had time to help a father work through his fears of a needed operation or to lead a parent to give consent for the correction of a cleft palate; or to help a mother keep braces on a crippled child when they became uncomfortable; or to persuade a parent to see the value of and to accept a mental health clinic referral.

It is not possible in this report to account for all community efforts made during project time. Suffice it to say that two convictions of project workers were reinforced: one, it is the responsibility of public welfare workers to give an account to and to interpret needs to the community, thereby contributing to the development of additional resources; second, it is imperative that workers

know the ADC families with whom they work from all dimensions.

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Chapter VIII

Summary Observations and Conclusions

The project has underscored the need for public welfare workers to become more sensitive to the implications to ADC families of the myriad needs and problems confronting them daily and to find ways to present these facts to the public effectively. The responsibility belongs in part to public welfare workers as individual members of a community where needs exist, and in part to them as professional people who see first hand the restraining forces which sometimes dwarf the development of children in ADC families and keep them from becoming adequate parents and leaders in the future.

While it is not possible in this report to list all areas where efforts were increased and other disciplines involved, a few outstanding areas as seen through the project are set forth in the following paragraphs.

Education

A large number of children are academically retarded from two to five years, some even more. It is hard to estimate the number who are in reality academically retarded but have been socially promoted over a period of several years. Enough is known, however, to be aware that the figure is alarmingly high.

Leading the list of reasons for this somber picture is the lack of recognition of the importance of regular school attendance by parents. They keep children out of school for a variety of reasons: to help do the family wash, run errands, or to "watch out" for younger children in the home. Parents frequently rotate their children's attend-

ance at school, keeping a different child out of school each day. In some instances, it was found that a few younger children had been out of school entirely for one and two years.

It is recognized that the home is the first school room and the parents the first "teachers." The lack of educational preparation for this important role of parental teaching could be more readily understood when the educational background of these

parents was noted. The majority of the 128 parents had eighth grade and less of schooling, but this was not an accurate picture because some parents giving grade levels reached in school as 6, 7, 8 (and in some cases higher grades) were actually functionally illiterate; many could not read and had illegible signatures. One mother who listed the seventh grade as her grade level reached had to sign by mark.

Over and above the academic responsibility of parents is the further responsibility for transmitting moral, social, and spiritual values, so important in the formation of character in young children. This responsibility cannot be carried out when these parents operate in a mute environment in these areas. Parents whose experiences and knowledge have been dulled or deteriorated by overpowering social ills cannot teach what they themselves have not experienced or learned. This teaching responsibility by parents is, perhaps, the greatest responsibility which parents have for children. Learning in this area is not only directly related to academic achievement but to the formation of character.

Progress can be made in enabling parents to correct unfavorable conditions which exist in some environments through adult education classes, job training facilities, individual teaching, and utilization of all forces which can

contribute to parents' development. The majority of children in ADC and other disadvantaged families, however, are not presently reached through these channels. It was observed from work on this project that the best and quickest method would be the assurance of adequate educational opportunities for all children today together with supportive help to parents in order to motivate them to accept these advantages for their children.

In work with smaller caseloads, practically all schools involved were visited and teachers interviewed. Some of the comments of teachers were as follows: "M....., can be a good student if she would only attend school regularly. Whenever she comes, she is tardy—30 and 40 minutes." "The student's home environment is far from what it should be." "My greatest problems is getting B..... to come to school on time and to attend school regularly." "If she would do so, I believe she would be an average student." "J..... is a nice child but needs individual help." "This

pupil has not attended school regularly. Parents do not cooperate in any activities in the school program." "This student is somewhat retarded but with special assistance given him along with his great desire to learn, this he may soon overcome." "This pupil is capable of doing a fair grade of work if given special guidance."

Another factor in the educational dilemma of these ADC families was the large number of children who did not have school books and supplies and whose parents could not afford them. Insufficient educational funds make it impossible for schools in this area to provide textbooks for the first five grades although it is legally permissive to do so. In addition to the textbooks, supplementary books, supplies and fees are required. In many families where there is often not enough to eat, it is readily understood

why parents are not able to provide the necessary school supplies. Typical of many comments by teachers on this point is the following: "If L.....: is given a chance to improve her attendance and have books, pencils and other materials to work with, she would become an average student." (L..... is a first grade student.)

Recognizing that school books and supplies were status symbols to these ADC children, it was easy to see how the unbounded eagerness of these young children was soon stifled when they had to sit in school day after day with no tools for learning.

When workers and teachers fail, whatever the reason, to take advantage of the uninhibited and natural desire for learning in this younger age group, they have lost the best opportunity for keeping the child in school. The sensitive worker with the cooperation of the teacher can predict almost without question that a large number of children in these ADC families will become school dropouts unless some immediate action is taken. It is discouraging when it is realized that if these children had adequate school supplies, many of them would remain in school. It is encouraging, however, to know the deep concern of school officials about this educational dilemma and to realize that through the efforts of cooperative forces the public's interest can be enlisted and progress can be made in this direction.

Another important factor in accelerating academic progress is the school lunch plan. Most of these ADC children came from seriously economically deprived families;

many of them lived in rural areas where garden food stuff was available but where there was no extra cash for lunch food materials or for lunches at school. In Dallas County, it is the general procedure for sponsors to pay for each lunch given through the schools. In general,

school officials assume responsibility for getting sponsors for these free lunches. There are many instances, however, where the public welfare worker helps to secure sponsors. While this service requires a lot of time, its importance to school progress of children makes it worthwhile. The project workers observed, for example, the improved physical appearance of school children when they received adequate lunches at school. It was noted also that the learning ability of children was greatly affected by proper and adequate food. The schools were helpful to project workers in this area. In many instances, the project workers were able to encourage parents to provide more adequate breakfasts for some children in cases where the teachers indicated to workers that this was important in certain families.

In many rural and semirural sections, even in outlying urban areas, the school plays an important part in all phases of community life; civic meetings of an educational nature and concerts are held at the school; many social affairs are combined with student programs of various kinds. The difficulty lies in the fact that the majority of ADC parents do not attend for various reasons. Lack of interest because of a barren environment and no transportation facilities are among the top in importance. It is a rewarding experience to visualize what could happen if concerted effort could be made by all forces in a community toward full community participation in these school-centered activities. It is believed that the results would not only be beneficial to the disadvantaged persons but should bring a richer community life to all members in the community.

Project workers were aware of the great need for additional vocational training facilities. The efficacy of combined academic and vocational facilities was pointed up. For instance, many trade schools require an eighth grade attainment (some courses require a twelfth grade attain-

ment) before acceptance. Many school drop-outs never reach the eighth grade. In many cases, it can be determined in the early elementary.

grades which children should be directed toward vocational training. The potentials of these children could be more adequately realized if their early academic work could be directed toward vocational training.

The educational needs of ADC families in this project demonstrated that fuller educational attainment could be achieved if there were maximum provision in the following areas: free school books and supplies in all grades through the twelfth grade; free school lunches to economically deprived children; additional school attendance workers throughout the school system; combination facilities for vocational and academic training; and motivation of parents by all possible sources to become more interested in their children's school attainments. Public welfare workers at all levels of operation are in a unique position to use their knowledge in enchancing and enriching educational opportunities for all children. The combined efforts of education and welfare forces can make a valuable contribution to increased opportunity for learning, especially in the area of disadvantaged children.

Health

In the area of public health, there are many untapped resources which the public welfare worker can use. In the vacuum of limitations in which many parents operate, it is not strange that the free preventive health services available through the Health Department are not fully used. Many parents do not realize the importance of immunizations to the healthy development of their children; many superstitions exist over the correction of physical handicaps. An example in this connection is that of the ADC

mother who did not want her nine year old child to have the severe cataract removed from her eye, believing that "the Lord had sent her into the world this way" and like this she should remain. In another family, it was found that the ADC mother was taking medicine secured from a mail order house for her epileptic condition.

In work with the project families, it was found that the majority of parents did not know what immunizations their children had had. When project workers compared the information given by parents on immunizations with the Health Department's record, big discrepancies were found in practically all cases. Many parents depend on the

public health nurses through the schools to assume responsibility for their children's immunizations. A large number of pre-school children, therefore, did not get immunizations and many school children did not get them because of their absences from school on the day the public health nurse visited the school. This same lack of initiative and concern existed in many cases where there were serious handicaps such as heart or crippling conditions. There was frequent failure on the part of parents to attend the TB clinics and to bring children in for chest X-rays. As a result of intensive work with many of the project families, more parents were motivated to use the clinic more extensively.

Based on this area of preventive health measures as well as other areas, it is recognized that motivation of the person to use a service is as important as the availability of the service itself. This health area should receive close attention from public workers and be strictly followed up with parents, health and school authorities. There are many gaps existing in many areas which affect wholesome development of children. The import of these facts should be of grave concern to everyone living in a community;

it should be of primary concern to public welfare workers to know actual facts about the health of ADC families and to do something about seeing that ADC parents and their children have access to this important and available health service.

There are many health needs for which there are no present facilities in Dallas County. While both doctors and dentists give unselfishly of their time without remuneration in many instances and while the Health Department uses its facilities to the maximum, there are many crucial unmet needs. For example, there is no dental clinic for Negro children, no dental clinic for adults, no pediatric clinic for children over three years, and no health clinics for adults except in several specific instances such as TB, cancer, and mental health clinics.

In the area of health needs, it was strongly pointed up that more adequate use should be made of existing health facilities and additional facilities be made available.

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Housing

An important contributing factor to the unfavorable, unsuitable and inadequate conditions of ADC families in this project was the factor of poor housing. Out of the 128 families, 72 families were known to be living in houses with outside toilets; 63 families secured their water outside the home through wells, pumps and springs; and 23 families had no refrigeration of any kind. The hopeful note in this area, however, was that a majority of the families expressed concern about their housing situations and many made efforts to improve them. Several families moved to the Housing project during the project period. It was heartening to see how many families, with the support and help of the workers, improved physical appearance of their homes. The yard of one home which was littered with trash was transformed. It was cleaned and eventually had several neat borders and beds of

flowers. The family's pride in this accomplishment was as great as the worker's delight in noting and sharing with them the progress made.

The older girls in another family began to keep their home clean and orderly. The girls were proud when the worker commented on the bowl of flowers on the table. One mother used a discarded metal medicine cabinet for a wall decoration in which were placed broken vases with paper flowers. All of these were big steps forward in recognizing the need to make the home more attractive and being able to do something about it.

It is believed that many families would make more effort to improve their housing if the agency could pay 100% of the budgeted need. Rent and utilities are two items which have to be paid and the family has to meet all other expenses out of the balance left after payment of these two items. These families must seek the lowest possible rents. This means, for the most part, that they must secure houses without minimum health facilities. The vicious circle then follows: the health of the child is often endangered and affected by the unsanitary conditions of the home; the child's school work is influenced by his health and lack of basic home and physical comforts; his social contacts at school and in the community are influenced

by his personal hygiene. If satisfaction cannot be derived at some point along the way the child soon becomes discouraged and stops trying; he drops out of school or is socially promoted. He grows up, starts his family, and his children in turn may follow the same vicious circle. Poor housing has an adverse effect not only on the physical, but on the emotional well-being of children.

Individual and group teaching on ways to improve housing conditions was seen as a real need in the project.

Many families readily accepted the suggestions of project workers when small ways of improving housing conditions were pointed out.

Poor housing is an important area of community concern. This is an area in which much interpretation needs to be given to the public; it is an area in which an awareness of poor housing conditions should be stimulated through citizen committees, civic and church groups.

Home Management

With the limited education, social and employment background of the majority of ADC families, it is not surprising that most mothers in the project group have inadequate knowledge of basic home management principles. Considering the low economic level at which these families operated, the amazing fact is not how poorly these mothers managed but how well they managed under the circumstances.

The project workers saw improvement in management responsibility by mothers in many individual situations. These occurred when the workers were able to make practical suggestions which the ADC mothers could try out in spite of their limited home situations. Many of these families bought food in piecemeal. Effort was made to help them buy in larger amounts and to try different low-cost foods. The workers pointed out that the money some of the families spent on luncheon meat, bottled drinks and similar items could be used to buy larger quantities of more wholesome food. An ADC mother in one family became interested when the worker helped her work out a plan to purchase a refrigerator. Accomplishment in this area stimulated this mother to increased interest in other areas of home management and care of her children. Helpful hints were given in working out ways for storing clothing, such as keeping

clothing in boxes or hanging articles of clothing on coat hangers on the wall. Some mothers kept the house scrupulously clean and orderly but, in the majority of instances, the mothers needed help in this area.

Generally, these ADC mothers represented a group who, because of a lack of communication, were not influenced by outside forces which could help them improve their situations. For instance, they did not belong to organized groups, such as Home Demonstration Clubs, study groups, P. T. A., or community recreational groups. In many instances, children in these familes were reluctant to participate in "Y" activities and other existing organized recreational facilities because they did not feel that they "belonged" with the other children taking part in these activities. It appeared that these families were families who could profit by small community units where they could be helped on their own premises to accept better ways of doing things. A few of the great needs in this area were found to be: knowledge of basic sewing; preparation of wholesome meals on limited budgets; ways to care for children's clothing; community play areas for children; and other opportunities to learn how to communicate with other people in the community so that they would not feel so isolated.

In many instances it was learned that families did not have room or furniture which permitted them to sit down at mealtime. One mother made special effort to see that the family ate at the same time even though they had to take their food to separate parts of the house to eat; there was a sparsity of dishes and eating utensils in many families. In most instances, there was no family setting at meal time in which to have a blessing before eating, to teach table manners, or to enjoy the kind of conversation which can provide channels for learning. Work with families established that mothers could be motivated to become better homemakers in spite of limitations. Im-

provement of home management has many possibilities for strengthening family life.

Family Relationships

Strong family ties in these ADC families were found. Feelings of parents and children toward each other were similar to those found in economically secure families.

This is the common factor running through all families regardless of social, economic, and educational levels. These ties are the foundation on which can be built strong family life. They can be understood by the lay public because most persons have experienced in some degree the stabilizing influence of belonging to a family group.

The project workers had more time to spend in knowing the significance of the father to the children even though he was absent or incapacitated. The absence of fathers was not only verified for eligibility determination, but wherever possible, the father was located and interviewed in order to ascertain his feelings toward his children and when appropriate to encourage maintenance of the parental tie. The father in prison was glad to talk about his feelings for his family and to discuss his plans and hopes for them. In some situations where hostile feelings existed, with encouragement and help, parents and older children were able to verbalize their feelings and frequently were enabled to work through to favorable relationships.

It was the exception, rather than the usual, that children did not know the name of their fathers regardless of the marital status of the parents. If there was more than one father in the family unit, the children knew the name of each other's father and they took pride in any attention, however slight, shown by these fathers. It was a common occurrence for children to refer to their mother's "friend"

or the fathers of the other children in the home as "Daddy". When they spoke of their natural fathers, however, they referred to them as their "real" daddy. Even when there were several fathers in the same family, a meaningful relationship between child and father was often apparent.

It was found that many absent fathers have good feelings for their children regardless of the marital status. Many children maintained relationships with their fathers after the marital relationship had been broken. In the majority of cases, failure to support or to contribute to the support of children appeared to be the result of unfavorable social factors. Many of these fathers had neither the education nor job skills which make it possible for them to do much more than support themselves.

The father's relationship to the family is an area which should be studied more carefully—in terms of emotional meaning to the family as well as the father's responsibility for financial support. It was interesting to note that 56 children were legitimated by their natural fathers during the course of the project.

Intensive work with project families revealed that the security of natural family ties was the strongest security these children had. If these basic family relationships are to be maintained and strengthened, they must be reinforced with favorable conditions, such as adequate educational opportunities, health facilities, total family and community relationships, and spiritual forces.

The purpose of the ADC program in any community is to preserve family ties and to assist children in claiming their rights to home life. The report of this project demonstrates that significant progress was made toward preservation of home life for some 500 children, even

though these were children living in homes with very serious problems.

The importance of the ADC payment was clearly demonstrated.

A strong relationship was seen between improved quality of case work service and the progress made toward preservation of home life. There was evidence of movement toward more adequate conditions when caseloads were reduced, knowledge was gained, and skills developed and applied.

More was learned about resources within the community —their adequacy and existing gaps. Intensified professional use of such resources reemphasized the importance of these forces in strengthening family life.

The welfare of people is the concern of public welfare workers and of every citizen. The well-being of all children is related to the well-being of children living in ADC families. The report concerning these Alabama ADC families, therefore, has important implications not only for public welfare workers but for citizens in the community.

As case work services are enriched, community resources utilized, and public welfare workers interpret needs and measure progress the public can more clearly see

the value in the ADC program. This project is only one step demonstrating means whereby these values can be seen.

As concentrated steps are taken throughout the country toward improved services in ADC, public welfare workers and the community will have participated in

strengthening our democracy's main line of defense—our nation's children.

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Chapter IX

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APPENDIX

A. Statistical Tabulations

B. Case Stories

C. Schedule Forms and Instructions

A. STATISTICAL TABULATIONS

TABLE 1. NUMBER OF FAMILIES CLASSIFIED BY RACE

RACE	TOTAL FAMILIES	
	Number	Percent
TOTAL	128	100.0%
White	21	16.4
Negro	107	83.6

TABLE 2. NUMBER OF FAMILIES CLASSIFIED BY RACE AND BY PLACE OF RESIDENCE

PLACE OF RESIDENCE	Total Families		RACE	
	Number	Percent	White	Negro
TOTAL	128	100.0%	21	107
Urban	74	57.8	14	60
Rural:				
Nonfarm	33	25.8	7	26
Farm	21	16.4	0	21

LENGTH OF TIME ADC RECEIVED PRIOR TO JULY 1, 1962	Total Families		NUMBER OF ADC OPENINGS PRIOR TO MOST RECENT OPENING			
	Number	Percent 1/	None	One	Two	Three or More
TOTAL	128	100.0%	105	18	2	3
Less than 6 months	17	15.8	10	6	1	0
6 months but less than 1 year	12	11.1	11	1	0	0
1 year but less than 2	18	16.7	15	2	0	1
2 years but less than 3	8	7.4	7	0	0	1
3 years but less than 4	9	8.3	7	2	0	0
4 years but less than 5	11	10.2	10	1	0	0
5 years but less than 7	6	5.5	4	1	1	0
7 years but less than 10	8	7.4	7	1	0	0
10 years or more	7	6.5	7	0	0	0
Case opened on or after July 1, 1962	12	11.1	10	1	0	1
Inapplicable - application denied	20	xxx	17	3	0	0

1/ Percentage distribution computed on basis of total excluding 20 project families whose applications were denied.

TABLE 4. NUMBER OF FAMILIES CLASSIFIED BY RACE AND STATUS OF FATHER WITH RESPECT TO ELIGIBILITY OF CHILDREN FOR ADC

STATUS OF FATHER WITH RESPECT TO ELIGIBILITY OF CHILDREN FOR ADC	Total Families		RACE	
	Number	Percent	White	Negro
TOTAL	128	100.0%	21	107
Dead	11	8.6	0	11
Incapacitated (in home or elsewhere)	19	14.8	5	14
Absent:				
Divorced or legally separated	8	6.3	4	4
Separated without court decree	17	13.3	4	13
Deserting	17	13.3	4	13
Not married to mother	46	35.9	1	45
Imprisoned	4	3.1	1	3
Absent for other reasons	2	1.6	0	2
Other status	4	3.1	2	2

TABLE 5. NUMBER OF FAMILIES CLASSIFIED BY RACE AND BY WHEREABOUTS OF FATHER

WHEREABOUTS OF FATHER	Total Families		RACE	
	Number	Percent	White	Negro
TOTAL	128	100.0%	21	107
Father dead	11	8.6	0	11
In home	19	14.8	6	13
Not in home:				
In same county as family	42	32.8	5	37
In same state but not same county	17	13.3	5	12
Elsewhere - whereabouts known	10	7.8	3	7
Elsewhere - whereabouts unknown	29	22.7	2	27

TABLE 6. NUMBER OF FAMILIES BY STATUS OF THE MOTHER

STATUS OF MOTHER	TOTAL FAMILIES	
	Number	Percent
TOTAL	128	100.0%
Mother in the home:		
Mother not employed:		
Needed in home	19	14.8
No marketable skills	4	3.1
No work available	7	5.5
Physically or mentally not able	18	14.0
Other status	2	1.6
Mother employed:		
Full time	22	17.2
Part time	41	32.0
Mother not in the home:		
Dead	6	4.7
Deserting	5	3.9
In medical institutions:		
Other than mental	0	.0
Mental	2	1.6
Other status	2	1.6

TABLE 7. NUMBER OF FAMILIES CLASSIFIED BY USUAL OCCUPATIONAL CLASS OF FATHER AND MOTHER

OCCUPATIONAL CLASS	TOTAL FAMILIES BY OCCUPATIONAL CLASS OF FATHER		TOTAL FAMILIES BY OCCUPATIONAL CLASS OF MOTHER	
	Number	Percent 1/	Number	Percent 1/
TOTAL	128	100.0%	128	100.0%
Professional and semi-professional	0	.0	1	.8
Proprietors, managers, and officials	0	.0	0	.0
Clerical, sales, and kindred workers	3	2.8	0	.0
Craftsmen, foremen, and kindred workers	5	4.7	0	.0
Farm owners, renters, farm managers	4	3.7	2	1.6
Operatives and kindred semi-skilled and skilled workers	12	11.2	7	5.6
Farm laborers, including sharecroppers	20	18.7	23	18.6
Service workers, except private household	5	4.7	21	16.9
Private household service workers	0	.0	34	27.4
Unskilled laborers	57	53.3	23	18.6
Never held full-time employment	1	.9	13	10.5
Occupational class unknown	21	xxx	4	xxx

1/ Percentage distribution computed on basis of total excluding families for whom information was unknown.

NUMBER OF FAMILIES CLASSIFIED BY YEARS OF SCHOOLING COMPLETED BY THE FATHER AND MOTHER 1/

YEARS OF SCHOOLING COMPLETED	FATHER	MOTHER	
		Number	Percent 2/
TOTAL	19	113	100.0%
Elementary school:			
Less than 5 years (including none)	9	18	17.5
5 to 7 years	3	26	25.2
8 years	2	14	13.6
High school:			
1 to 3 years	0	32	31.1
4 years	1	12	11.6
College:			
1 to 3 years	0	0	.0
4 years or more	0	1	1.0
Unknown	4	10	xxx

1/ Information available only for the incapacitated fathers and the mothers who were in the home. Percentage distribution of years of schooling completed by fathers not given since the number of incapacitated fathers is so small.

2/ Percentage distribution computed on basis of total excluding families for whom information was unknown.

TABLE 9. NUMBER OF FAMILIES CLASSIFIED BY RACE AND BY HOUSING TENURE OF HOUSEHOLD

HOUSING TENURE OF HOUSEHOLD	Total Families		RACE	
	Number	Percent	White	Negro
TOTAL	128	100.0%	21	107
Families not living in housing units	0	.0	0	0
Families living in housing units - TOTAL	128	100.0	21	107
Owned or being bought by person living in housing unit	10	7.8	3	7
Rented	113	88.3	18	95
No cash rent	5	3.9	0	5

TABLE 10. NUMBER OF FAMILIES CLASSIFIED BY NUMBER OF PERSONS IN THE HOUSEHOLD AND BY NUMBER OF ROOMS IN THE HOUSING UNIT

NUMBER OF PERSONS IN THE HOUSEHOLD	NUMBER OF FAMILIES BY NUMBER OF ROOMS IN HOUSING UNIT									
	Total	1 Room	2 Rooms	3 Rooms	4 Rooms	5 Rooms	6 Rooms	7 Rooms	8 Rooms	Unknown
TOTAL	128	2	21	34	26	9	7	3	0	26
1 person	0	0	0	0	0	0	0	0	0	0
2 persons	2	0	0	1	0	1	0	0	0	0
3 persons	12	1	4	3	1	0	0	0	0	3
4 persons	15	1	2	2	3	1	0	0	0	6
5 persons	22	0	4	3	5	2	2	0	0	6
6 persons	19	0	3	8	5	1	0	1	0	1
7 persons	11	0	2	4	3	1	1	0	0	0
8 persons	13	0	2	4	3	0	1	1	0	2
9 persons	14	0	2	4	1	3	1	1	0	2
10 or more persons	20	0	2	5	5	0	2	0	0	6

TABLE 11. NUMBER OF FAMILIES CLASSIFIED BY TYPES OF PUBLIC ASSISTANCE RECEIVED BY OTHER PERSONS LIVING IN THE HOUSEHOLD WHO ARE NOT IN THE ADC ASSISTANCE GROUP

TYPES OF PUBLIC ASSISTANCE RECEIVED BY OTHER PERSONS LIVING IN THE HOUSEHOLD	TOTAL FAMILIES	
	Number	Percent
TOTAL	128	100.0%
No other public assistance 1/	109	85.2
Other public assistance with or without general assistance - TOTAL	19	14.8
Additional ADC only	1	.8
APTD only	5	3.9
OAP only	12	9.3
AB only	1	.8

1/ Includes 54 families with no other persons living in the household.

TABLE 12. AMOUNT OF REQUIREMENTS, INCOME OTHER THAN ASSISTANCE, ADC PAYMENTS, AND UNMET NEED OF FAMILIES INCLUDED IN THE PROJECT 1/

	TOTAL AMOUNT	AVERAGE AMOUNT PER FAMILY
Requirements	$18,967	$175.62
Income other than assistance	3,432	31.78
ADC payments	5,620	52.04
Unmet need	9,915	91.80

1/ Excludes 20 families whose applications were denied.

TABLE 13. NUMBER OF FAMILIES APPROVED FOR ASSISTANCE AND TOTAL AMOUNT OF INCOME OTHER THAN ASSISTANCE, CLASSIFIED BY SOURCE OF INCOME

SOURCE OF INCOME	FAMILIES Number	FAMILIES Percent	TOTAL AMOUNT OF INCOME OTHER THAN ASSISTANCE
TOTAL 1/	108	100.0%	$5,434.00
Families with no income other than assistance	33	30.6	.00
Families with income other than assistance - TOTAL 2/	75	69.4	5,432.00
Cash income:			
Earnings of person in assistance group:			
Mother	48	44.4	1,650.00
Father	8	7.4	157.00
Children	14	13.0	197.00
Other person(s)	1	.9	4.00
Contributions from absent father	11	10.2	271.00
OASDI benefits	10	9.3	772.00
Other cash income	3	2.8	109.00
Income in kind to which a money value is given	29	26.9	272.00

2/ Unduplicated number of families with income other than assistance.

TABLE 14. NUMBER OF CHILDREN CLASSIFIED BY RACE AND BY SPECIFIED AGE GROUP

SPECIFIED AGE GROUP	Total Children		RACE	
	Number	Percent	White	Negro
TOTAL 1/	493	100.0%	68	425
Under 6 years	194	39.4	28	166
6-12 years	211	42.8	25	186
13-17 years	88	17.8	15	73

1/ Excludes 1 unborn child counted as a recipient.

TABLE 15. NUMBER OF CHILDREN CLASSIFIED BY RACE AND BY LEGITIMACY STATUS

LEGITIMACY STATUS	Total Children		RACE	
	Number	Percent	White	Negro
TOTAL 1/	493	100.0%	68	425
Legitimate	326	66.1	63	263
Illegitimate	167	33.9	5	162

1/ Excludes 1 unborn child counted as a recipient.

TABLE 16. NUMBER OF CHILDREN CLASSIFIED BY LEGITIMACY STATUS AND BY ADC STATUS OF MOTHER WHEN CHILD WAS BORN

ADC STATUS OF MOTHER WHEN CHILD WAS BORN	Total Children		LEGITIMACY STATUS	
	Number	Percent	Legitimate	Illegitimate
TOTAL 1/	493	100.0%	326	167
Mother receiving ADC	64	13.0	41	23
Mother not receiving ADC	429	87.0	285	144

1/ Excludes 1 unborn child counted as a recipient.

TABLE 17. NUMBER OF CHILDREN 6-17 YEARS OF AGE CLASSIFIED BY SEX AND SCHOOL ATTENDANCE

SCHOOL ATTENDANCE	Total Children		SEX	
	Number	Percent 1/	Boys	Girls
TOTAL CHILDREN AGED 6-17	299	100.0%	144	155
Attending school	259	88.4	126	133
Not attending school	34	11.6	16	18
Physical incapacity	1	.3	0	1
Mental incapacity	1	.3	0	1
Too young	17	5.8	10	7
Other reason	15	5.2	6	9
Unknown	6	xx	2	4

1/ Percentage distribution computed on basis of total excluding children for whom information was unknown.

TABLE 18. NUMBER OF CHILDREN WITH SPECIFIED PHYSICAL AND MENTAL IMPAIRMENTS

PHYSICAL AND MENTAL IMPAIRMENTS	Children With Specified Impairments		Children Without Specified Impairments		Unknown Whether Child Has Specified Impairment
	Number	Percent of Total Children 1/	Number	Percent of Total Children 1/	
Some visual defect	38	7.9%	442	92.1%	13
Hearing impairment	13	2.7	468	97.3	12
Speech defect	14	2.9	464	97.1	15
Dental impairment	43	9.4	416	90.6	34
Orthopedic impairment	19	4.0	460	96.0	14
Mental retardation	17	3.6	458	96.4	18
Emotional or other nervous disorder	19	4.0	459	96.0	15
Heart abnormality or rheumatic fever	11	2.3	468	97.7	14
Other chronic condition	18	3.7	463	96.3	12

1/ Percentage distribution computed on basis of total excluding children for whom information was unknown.

NOTE: 109 different children had one or more of the impairments listed in the above table.

TABLE 3. NUMBER OF FAMILIES CLASSIFIED BY LENGTH OF TIME ADC RECEIVED PRIOR TO JULY 1, 1962 AND BY NUMBER OF OPENINGS FOR ADC PRIOR TO MOST RECENT OPENING

TABLE 19. PROBLEM AREAS IDENTIFIED CLASSIFIED BY TYPE

TYPE OF PROBLEM AREAS	PROBLEM	
	Number	Percent
TOTAL	2,214	100.0%
Financial, including employment	708	32.0
Health:		
Adult health	214	9.7
Child health	233	10.5
Relationships	213	9.6
Adult behavior	268	12.1
Child behavior	44	2.0
Education and vocational training:		
For a child	131	5.9
For an adult	42	1.9
Inadequate living arrangements and care	227	10.3
Recreation	134	6.0

TABLE 20. NUMBER OF PROBLEM AREAS IDENTIFIED PER FAMILY

NUMBER OF PROBLEM AREAS IDENTIFIED	FAMILIES	
	Number	Percent
TOTAL	128	100.0%
3 - 4	5	3.9
5 - 9	16	12.5
10 - 14	24	18.7
15 - 19	30	23.4
20 - 24	34	26.6
25 - 29	12	9.4
30 - 34	6	4.7
35 - 39	0	.0
40	1	.8

TABLE 21. SERVICE ACTIONS CLASSIFIED BY TYPE

TYPE OF SERVICE ACTION	SERVICE ACTIONS	
	Number	Percent
TOTAL	2,373	100.0%
Direct action of worker to assist client	1,676	70.6
Use of Agency resources	51	2.1
Use of State and community resources	509	21.5
Community participation and planning for services	137	5.8

TABLE 22. NUMBER OF SERVICE ACTIONS CLASSIFIED BY STATUS OF SERVICE ACTIONS AT END OF PROJECT

SERVICE ACTIONS	STATUS OF SERVICE ACTIONS AT END OF PROJECT			
	Total	Completed	Discontinued	Continued
TOTAL	2,373	430	1,203	740
DIRECT ACTION OF WORKER TO ASSIST CLIENT				
Locate absent parent	57	13	34	10
Encourage absent parent to write family; maintain family ties	3	1	1	1
Arrange with father for contributions to children's support	45	16	20	9
Support and help parent secure employment	70	18	33	19
Help parent develop potential resources such as:				
Planting garden	15	1	6	8
Utilizing available small acreages	5	1	2	2
Developing greater skill in keeping the house	19	0	11	8
Developing greater skill in planning meals	15	0	10	5
Developing greater skill in caring for sick members	2	0	0	2
Encourage and support parent in using resources to:				
Maintain and strengthen family life	1,362	71	822	469
Obtain medical care	78	34	25	19
Cooperate with VRS representative in attaining physical and/or vocational rehabilitation	5	1	3	1
USE OF AGENCY RESOURCES				
Approve for other type of categorical assistance when appropriate	16	8	4	4
Approve and certify for ADC	3	0	1	2
Refer to child welfare for help with special problems relating to children	32	1	7	24

TABLE 22. NUMBER OF SERVICE ACTIONS CLASSIFIED BY STATUS OF SERVICE ACTIONS AT END OF PROJECT (Continued)

SERVICE ACTIONS	STATUS OF SERVICE ACTIONS AT END OF PROJECT			
	Total	Completed	Discontinued	Continued
USE OF STATE AND COMMUNITY RESOURCES				
Alabama Sight Conservation Association, Inc.	28	27	1	0
Alabama Society for Crippled Children and Adults	27	13	10	4
Alabama Tuberculosis Association	9	7	1	1
Alcoholism Clinics	3	0	0	3
American National Red Cross	1	1	0	0
Child Caring Institutions and Agencies	2	0	0	2
Civic Clubs	6	4	0	2
Churches	4	4	0	0
County Health Departments	124	53	50	21
Day Care Centers	2	1	0	1
District Social Security Field Offices	7	7	0	0
Mental Health Clinics	17	14	3	0
Public Schools	117	26	54	37
State Employment Service	13	9	3	1
State Mental Hospitals	3	2	1	0
Veterans Administration Hospital	1	0	1	0
Veterans Administration Regional Office	2	2	0	0
Vocational Rehabilitation Service	46	32	11	3
Y.M.C.A.	10	0	6	4
Referral to Juvenile Court	41	25	9	7
Referral to other courts	32	27	2	3
Other	14	8	5	1
COMMUNITY PARTICIPATION AND PLANNING FOR SERVICES				
Point up need for and work with groups in community to develop resources to meet particular needs	2	0	1	1
No available resources	135	3	66	66

TABLE 23. NUMBER OF SERVICE ACTIONS CLASSIFIED BY TYPE AND BY STATUS AT END OF PROJECT

STATUS OF SERVICE ACTIONS	TYPE OF SERVICE ACTIONS									
	Total		Direct Action of Worker to Assist Client		Use of Agency Resources		Use of State and Community Resources		Community Participation and Planning for Services	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
TOTAL	2,373	100.0%	1,676	100.0%	51	100.0%	509	100.0%	137	100.0%
Completed	430	18.1	156	9.3	9	17.7	262	51.5	3	2.2
Discontinued	1,203	50.7	967	57.7	12	23.5	157	30.8	67	48.9
Continued	740	31.2	553	33.0	30	58.8	90	17.7	67	48.9

TABLE 24. STATUS OF PROBLEMS AT END OF PROJECT

STATUS OF PROBLEM	PROBLEMS IDENTIFIED	
	Number	Percent
TOTAL	2,214	100.0%
Problem corrected	424	19.2
Problem remains with improvement	1,035	46.7
Problem remains without improvement because of:		
Chronic nature of problem	72	3.3
Client's attitude	170	7.7
Proper resources not available	300	13.5
Client's moving out-of-state	55	2.5
Failure of out-of-state agency and court to follow through	7	.3
Inability to secure sufficient information to follow through	7	.3
Other	144	6.5

TABLE 25. NUMBER OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT

PROBLEM AREAS IDENTIFIED	TOTAL	STATUS OF PROBLEM AT END OF PROJECT: Problem Corrected	Problem Remains With Improvement	Problem Remains Without Improvement Because of: Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
TOTAL	2,214	424	1,035	755	72	170	300	55	7	7	144
FINANCIAL, INCLUDING EMPLOYMENT											
Need for help in meeting unmet financial expenses	128	5	95	28	0	1	0	4	0	0	23
Need to develop potential resources	67	12	43	12	1	5	0	2	0	0	4
Other financial needs	102	32	43	27	1	5	1	1	4	4	11
Lack of vocational skill or training	35	1	29	5	1	1	0	1	0	0	2
Need for vocational rehabilitation	27	18	1	8	0	3	0	1	0	0	4
Need for job placement	66	18	17	31	3	19	0	3	0	0	6
Need for help in locating employment when needed to become covered under OASDI	1	0	1	0	0	0	0	0	0	0	0
Other employment areas	29	7	15	7	1	3	0	0	0	0	3
Need for counselling service regarding:											
Inability to manage on limited budget	89	7	70	12	1	3	0	3	0	0	5
Inability to cope with family problems related to adjustment to inadequate income	81	7	62	12	2	3	0	3	0	0	4
Unawareness of or inability to use community resources	37	5	28	4	0	1	0	1	0	0	2
Other counselling areas	46	14	21	11	0	5	0	2	0	2	2
ADULT HEALTH											
Physical illness or handicap	56	22	17	17	7	5	1	1	0	0	3
Mental deficiency or retardation	17	0	4	13	10	1	0	1	0	0	1
Emotional maladjustment	34	7	19	8	2	4	0	1	0	0	1
Inability of family members to accept physical or mental disability	13	1	9	3	1	2	0	0	0	0	0
Difficulty in adjusting to prolonged illness	15	3	10	2	0	1	0	0	0	0	1

TABLE 25. NUMBER OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT (Continued)

PROBLEM AREAS IDENTIFIED	TOTAL	STATUS OF PROBLEM AT END OF PROJECT: Problem Corrected	Problem Remains With Improvement	Problem Remains Without Improvement Because of: Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
ADULT HEALTH (Continued)											
Unawareness of existing facilities for preventive as well as curative health care	16	3	10	3	0	0	0	0	0	0	3
Hesitancy to use resources when they are known	21	2	16	3	0	2	0	0	0	0	1
Other adult health areas	42	12	8	22	3	0	15	0	0	0	4
CHILD HEALTH											
Mental deficiency or retardation	20	2	8	10	7	2	0	0	0	0	1
Emotional maladjustment	13	4	8	1	0	0	0	1	0	0	0
Physical illness or handicap	49	25	20	4	2	1	0	0	0	0	1
Need for immunizations	85	31	43	11	0	4	0	1	0	0	6
Other child health areas	66	31	18	17	1	0	12	1	0	0	3
RELATIONSHIPS											
Lack of understanding of individual differences	24	3	13	8	0	4	0	1	0	0	3
Inability to accept responsibility	61	11	37	13	3	9	0	1	0	0	0
Inability to give or receive affection	4	0	2	2	0	2	0	0	0	0	0
Unpleasant relations resulting from the presence in the home of an aged, chronically ill or mentally deficient person	29	1	23	5	1	3	0	1	0	0	0
Other relationship areas	95	35	40	20	2	6	0	1	0	0	11
ADULT BEHAVIOR											
Child neglect or abuse	36	13	18	5	1	3	0	1	0	0	0
Unmarried parenthood	66	9	35	22	2	11	0	0	0	0	9

TABLE 25. NUMBER OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT (Continued)

PROBLEM AREAS IDENTIFIED	TOTAL	STATUS OF PROBLEM AT END OF PROJECT: Problem Corrected	Problem Remains With Improvement	Problem Remains Without Improvement Because of: Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
ADULT BEHAVIOR (Continued)											
Promiscuity or prostitution	38	3	23	12	1	6	0	1	0	0	4
Desertion or abandonment of family	38	6	14	18	1	5	0	2	3	1	6
Marital conflict	34	3	16	15	2	7	0	2	0	0	4
Excessive drinking	15	2	7	6	2	2	0	1	0	0	1
Law violation	7	3	2	2	0	2	0	0	0	0	0
Other adult behavior areas	34	7	15	12	0	9	0	1	0	0	2
CHILD BEHAVIOR											
Truancy	4	2	2	0	0	0	0	0	0	0	0
Stealing	5	4	1	0	0	0	0	0	0	0	0
Beyond control of parent or person acting as parent	8	4	2	2	1	1	0	0	0	0	0
Undesirables associates	11	2	8	1	0	0	0	1	0	0	0
Other child behavior areas	16	6	7	3	1	1	0	1	0	0	0
EDUCATION AND VOCATIONAL TRAINING FOR A CHILD											
Failure to attend school (for reason other than intellectual, emotional or physical condition) or irregular school attendance	42	5	32	5	1	4	0	0	0	0	0
Unsatisfactory school progress (including failure or low grades)	44	3	32	9	5	3	0	1	0	0	0
Need for special education (as for home-bound child, deaf or blind child)	16	2	3	11	0	1	6	2	0	0	2
Other school areas	29	5	16	8	2	4	2	0	0	0	0

TABLE 25. NUMBER OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT (Continued)

PROBLEM AREAS IDENTIFIED	TOTAL	STATUS OF PROBLEM AT END OF PROJECT: Problem Corrected	Problem Remains With Improvement	Problem Remains Without Improvement Because of: Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
FOR AN ADULT											
Inability to earn a living because of lack of training for a trade within present mental and physical ability	27	4	18	5	1	3	0	1	0	0	0
Need for additional skill on present job or to receive a promotion	2	1	1	0	0	0	0	0	0	0	0
Lack of motivation to secure training that he needs	13	1	7	5	0	5	0	0	0	0	0
Other education and vocational training areas	0	0	0	0	0	0	0	0	0	0	0
INADEQUATE LIVING ARRANGEMENTS AND CARE											
Undesirables and unhealthful housing or neighborhood	83	3	2	78	0	1	71	2	0	0	4
Lack of knowledge of homemaking	40	0	32	8	1	5	0	2	0	0	0
Need for boarding care, nursing care, or other special care arrangements	12	6	5	1	1	0	0	0	0	0	0
Overcrowded housing	76	3	0	73	1	1	64	2	0	0	5
Other inadequate living arrangements	16	1	1	14	0	0	13	1	0	0	0
RECREATION											
Lack of appropriate recreational outlets for adult(s)	44	2	0	42	0	0	39	2	0	0	1
Lack of appropriate recreational outlets for children	88	4	5	79	0	1	76	1	0	0	1
Other recreational areas	2	1	1	0	0	0	0	0	0	0	0

TABLE 26. PERCENTAGE DISTRIBUTION OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT

PROBLEM AREAS IDENTIFIED	STATUS OF PROBLEM AT END OF PROJECT										
				Problem Remains Without Improvement Because of:							
	TOTAL	Problem Corrected	Problem Remains With Improvement	Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FINANCIAL, INCLUDING EMPLOYMENT											
Need for help in meeting unmet financial expenses	5.8	1.2	9.2	3.7	.0	.6	.0	7.3	.0	.0	15.9
Need to develop potential resources	3.0	2.8	4.2	1.6	1.4	2.9	.0	3.7	.0	.0	2.8
Other financial needs	4.6	7.5	4.2	3.6	1.4	2.9	.3	1.8	57.1	57.1	7.6
Lack of vocational skill or training	1.6	.2	2.8	.7	1.4	.6	.0	1.8	.0	.0	1.4
Need for vocational rehabilitation	1.2	4.3	.1	1.0	.0	1.8	.0	1.8	.0	.0	2.8
Need for job placement	3.0	4.3	1.6	4.1	4.1	11.2	.0	5.5	.0	.0	4.1
Need for help in locating employment when needed to become covered under OASDI	1/	.0	.1	.0	.0	.0	.0	.0	.0	.0	.0
Other employment areas	1.3	1.7	1.4	.9	1.4	1.8	.0	.0	.0	.0	2.1
Need for counselling service regarding:											
Inability to manage on limited budget	4.0	1.7	6.8	1.6	1.4	1.8	.0	5.5	.0	.0	3.5
Inability to cope with family problems related to adjustment to inadequate income	3.7	1.7	6.0	1.6	2.8	1.8	.0	5.5	.0	.0	2.8
Unawareness of or inability to use community resources	1.7	1.2	2.7	.5	.0	.6	.0	1.8	.0	.0	1.4
Other counselling areas	2.1	3.3	2.0	1.5	.0	2.9	.0	3.7	.0	28.6	1.4
ADULT HEALTH											
Physical illness or handicap	2.5	5.2	1.6	2.2	9.7	2.9	.3	1.8	.0	.0	2.1
Mental deficiency or retardation	.8	.0	.4	1.7	13.8	.6	.0	1.8	.0	.0	.7
Emotional maladjustment	1.5	1.7	1.8	1.0	2.8	2.3	.0	1.8	.0	.0	.7
Inability of family members to accept physical or mental disability	.6	.2	.9	.4	1.4	1.2	.0	.0	.0	.0	.0
Difficulty in adjusting to prolonged illness-	.7	.7	1.0	.3	.0	.6	.0	.0	.0	.0	.7

TABLE 29. NUMBER OF FAMILIES CLASSIFIED BY WHEREABOUTS OF FATHER AT BEGINNING AND END OF PROJECT

WHEREABOUTS OF FATHER	FAMILIES			
	At Beginning of Project		At End of Project	
	Number	Percent	Number	Percent
TOTAL	128	100.0%	128	100.0%
Father dead	11	8.6	15	11.7
In home	19	14.8	33	25.8
Not in home:				
In same county as family	42	32.8	42	32.8
In same state but not same county	17	13.3	15	11.7
Elsewhere - whereabouts known	10	7.8	8	6.3
Elsewhere - whereabouts unknown	29	22.7	15	11.7

TABLE 30. AMOUNT OF REQUIREMENTS, INCOME OTHER THAN ASSISTANCE, ADC PAYMENTS, AND UNMET NEED OF FAMILIES AT BEGINNING AND END OF PROJECT 1/

	At Beginning of Project		At End of Project	
	Total Amount	Average Amount Per Family	Total Amount	Average Amount Per Family
Requirements	$18,967	$175.62	$18,352	$169.93
Income other than assistance	3,432	31.78	5,322 2/	49.28
ADC payments	5,620	52.04	4,835	44.77
Unmet need	9,915	91.80	8,195	75.88

1/ Excludes 20 families whose applications were denied.

2/ Does not include income over and above requirements. There were 9 families who at the end of the project had income which exceeded their requirements.

TABLE 26. PERCENTAGE DISTRIBUTION OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT (Continued)

PROBLEM AREAS IDENTIFIED	TOTAL	STATUS OF PROBLEM AT END OF PROJECT: Problem Corrected	Problem Remains With Improvement	Problem Remains Without Improvement Because of: Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
ADULT HEALTH (Continued)											
Unawareness of existing facilities for preventive as well as curative health care	.7	.7	1.0	.4	.0	.0	.0	.0	.0	.0	2.1
Hesitancy to use resources when they are known	1.0	.5	1.5	.4	.0	1.2	.0	.0	.0	.0	.7
Other adult health areas	1.9	2.8	.8	2.9	4.1	.0	5.0	.0	.0	.0	2.8
CHILD HEALTH											
Mental deficiency or retardation	.9	.5	.8	1.3	9.7	1.2	.0	.0	.0	.0	.7
Emotional maladjustment	.6	.9	.8	.1	.0	.0	.0	1.8	.0	.0	.0
Physical illness or handicap	2.2	5.9	1.9	.5	2.8	.6	.0	.0	.0	.0	.7
Need for immunizations	3.8	7.3	4.2	1.5	.0	2.3	.0	1.8	.0	.0	4.1
Other child health areas	3.0	7.3	1.7	2.2	1.4	.0	4.0	1.8	.0	.0	2.1
RELATIONSHIPS											
Lack of understanding of individual differences	1.1	.7	1.2	1.0	.0	2.3	.0	1.8	.0	.0	2.1
Inability to accept responsibility	2.8	2.6	3.6	1.7	4.1	5.3	.0	1.8	.0	.0	.0
Inability to give or receive affection	.2	.0	.2	.3	.0	1.2	.0	.0	.0	.0	.0
Unpleasant relations resulting from the presence in the home of an aged, chronically ill or mentally deficient person	1.3	.2	2.2	.7	1.4	1.8	.0	1.8	.0	.0	.0
Other relationship areas	4.3	8.3	3.9	2.6	2.8	3.5	.0	1.8	.0	.0	7.6
ADULT BEHAVIOR											
Child neglect or abuse	1.6	3.1	1.7	.7	1.4	1.8	.0	1.8	.0	.0	.0
Unmarried parenthood	3.0	2.1	3.4	2.9	2.8	6.5	.0	.0	.0	.0	6.2

TABLE 26. PERCENTAGE DISTRIBUTION OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT (Continued)

PROBLEM AREAS IDENTIFIED	TOTAL	STATUS OF PROBLEM AT END OF PROJECT: Problem Corrected	Problem Remains With Improvement	Problem Remains Without Improvement Because of: Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
ADULT BEHAVIOR (Continued)											
Promiscuity or prostitution	1.7	.7	2.2	1.6	1.4	3.5	.0	1.8	.0	.0	2.8
Desertion or abandonment of family	1.7	1.4	1.3	2.4	1.4	2.9	.0	3.7	42.9	14.3	4.1
Marital conflict	1.5	.7	1.5	2.0	2.8	4.1	.0	3.7	.0	.0	2.8
Excessive drinking	.7	.5	.7	.8	2.8	1.2	.0	1.8	.0	.0	.7
Law violation	.3	.7	.2	.3	.0	1.2	.0	.0	.0	.0	.0
Other adult behavior areas	1.5	1.7	1.4	1.6	.0	5.3	.0	1.8	.0	.0	1.4
CHILD BEHAVIOR											
Truancy	.2	.5	.2	.0	.0	.0	.0	.0	.0	.0	.0
Stealing	.2	.9	.1	.0	.0	.0	.0	.0	.0	.0	.0
Beyond control of parent or person acting as parent	.4	.9	.2	.3	1.4	.6	.0	.0	.0	.0	.0
Undesirables associates	.5	.5	.8	.1	.0	.0	.0	1.8	.0	.0	.0
Other child behavior areas	.7	1.4	.7	.4	1.4	.6	.0	1.8	.0	.0	.0
EDUCATION AND VOCATIONAL TRAINING FOR A CHILD											
Failure to attend school (for reason other than intellectual, emotional or physical condition) or irregular school attendance	1.9	1.2	3.1	.7	1.4	2.3	.0	.0	.0	.0	.0
Unsatisfactory school progress (including failure or low grades)	2.0	.7	3.1	1.2	6.9	1.8	.0	1.8	.0	.0	.0
Need for special education (as for home-bound child, deaf or blind child)	.7	.5	.3	1.5	.0	.6	2.0	3.6	.0	.0	1.4
Other school areas	1.3	1.2	1.5	1.0	2.8	2.3	.7	.0	.0	.0	.0

TABLE 26. PERCENTAGE DISTRIBUTION OF PROBLEM AREAS IDENTIFIED CLASSIFIED BY STATUS OF PROBLEM AT END OF PROJECT (Continued)

PROBLEM AREAS IDENTIFIED	STATUS OF PROBLEM AT END OF PROJECT										
				Problem Remains Without Improvement Because of:							
	TOTAL	Problem Corrected	Problem Remains With Improvement	Total	Chronic Nature of Problem	Client's Attitude	Proper Resources Not Available	Client's Moving Out of State	Failure of Out-of-State Agency & Court to Follow Through	Inability to Secure Sufficient Information to Follow Through	Other Reason
FOR AN ADULT											
Inability to earn a living because of lack of training for a trade within present mental and physical ability	1.2	.9	1.7	.7	1.4	1.8	.0	1.8	.0	.0	.0
Need for additional skill on present job or to receive a promotion	.1	.2	.1	.0	.0	.0	.0	.0	.0	.0	.0
Lack of motivation to secure training that he needs	.6	.2	.7	.7	.0	2.9	.0	.0	.0	.0	.0
Other education and vocational training areas	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0
INADEQUATE LIVING ARRANGEMENTS AND CARE											
Undesirable and unhealthful housing or neighborhood	3.8	.7	.2	10.3	.0	.6	23.7	3.7	.0	.0	2.8
Lack of knowledge of homemaking	1.8	.0	3.1	1.0	1.4	2.9	.0	3.7	.0	.0	.0
Need for boarding care, nursing care, or other special care arrangements	.5	1.4	.5	.1	1.4	.0	.0	.0	.0	.0	.0
Overcrowded housing	3.4	.7	.0	9.7	1.4	.6	21.4	3.6	.0	.0	3.5
Other inadequate living arrangements	.7	.2	.1	1.9	.0	.0	4.3	1.8	.0	.0	.0
RECREATION											
Lack of appropriate recreational outlets for adult(s)	2.0	.5	.0	5.6	.0	.0	13.0	3.6	.0	.0	.7
Lack of appropriate recreational outlets for children	4.0	.9	.5	10.5	.0	.6	25.3	1.8	.0	.0	.7
Other recreational areas	.1	.2	.1	.0	.0	.0	.0	.0	.0	.0	.0

1/ Less than .05 percent.

TABLE 27. STATUS OF CASE AT END OF PROJECT

STATUS OF CASE	NUMBER	PERCENT
TOTAL	128	100.0%
Closed	67	52.4
Transfer (regular ADC)	25	19.5
Transfer (Child Welfare)	16	12.5
Application denied	20	15.6

TABLE 28. NUMBER OF FAMILIES CLASSIFIED BY STATUS OF FATHER WITH RESPECT TO ELIGIBILITY OF CHILDREN FOR ADC AT BEGINNING AND END OF PROJECT

STATUS OF FATHER WITH RESPECT TO ELIGIBILITY OF CHILDREN FOR ADC	FAMILIES			
	At Beginning of Project		At End of Project	
	Number	Percent	Number	Percent
TOTAL	128	100.0%	128	100.0%
Dead	11	8.6	15	11.7
Incapacitated (in home or elsewhere)	19	14.8	16	12.5
Absent:				
Divorced or legally separated	8	6.3	8	6.2
Separated without court decree	17	13.3	13	10.2
Deserting	17	13.3	9	7.0
Not married to mother	46	35.9	46	35.9
Imprisoned	4	3.1	2	1.6
Absent for other reasons	2	1.6	1	.8
Other status	4	3.1	0	.0
Children no longer deprived of the support or care of father or father substitute	xx	xx	18	14.1

TABLE 31. NUMBER OF FATHERS IN ADC FAMILIES 1/

NUMBER OF FATHERS	FAMILIES	
	Number	Percent
TOTAL	128	100.0%
Only one father	59	46.1
More than one father - TOTAL	69	53.9
Two	36	28.1
Three	19	14.8
Four	10	7.8
Five	1	.8
Six	1	.8
Eight	1	.8
Ten	1	.8

1/ There was a total of 257 fathers in the 128 project families.

B. CASE STORIES

Father: Mr. Brown 46 yrs.

Mother: Mrs. Brown 31 yrs.

Children: Ellen 17 yrs., Joe 15 yrs., George 13 yrs., Mary 11 yrs., Harry 6 yrs., Jim, John (twins) 3 yrs.

When this family came to the project, they had been receiving ADC approximately one year. Mr. Brown had vision in only one eye. He was a mechanic by trade but had recently lost his regular job and was picking up odd logging jobs. He had a 9th grade education. His family seemed to have higher educational and social standards than Mrs. Brown's family. Mr. Brown's family were resentful and hostile toward Mrs. Brown. They attributed many of the family problems to Mrs. Brown, who was constantly calling her husband from his job to take her to the doctor, to see about the children, to buy food, etc.

Mrs. Brown had an 8th grade education. She seemed completely disorganized from an emotional standpoint. The available medical opinion described her condition as hypertensive encephalopathy which was secondary to postpartum toxemia of pregnancy. Her physical appearance was unkempt and disarranged. The house was disorderly and dirty. She talked at length about her strange and unusual physical complaints. She was in great need of dental care but had refused to go to the dentist, saying there was only one kind of pain killer she could take and she could only take this one time in 12 months. A year earlier, Mr. Brown's family had tried to plan toward Mrs. Brown's admission to a hospital for the mentally ill. This plan had been dropped because of the resistance of Mrs. Brown and her family. As a result, Mrs. Brown's resentment toward her husband's family increased.

The housing conditions were deplorable. Mrs. Brown attributed these conditions to the community and stated they would have to move out of the community before they could secure decent living arrangements. The family had to carry water from a distance. This problem added to the poor home conditions.

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The family lived in a small rural community. They had no outside contacts with a church or with neighbors. Ellen had dropped out of school in the 8th grade. Joe would not attend school regularly and Georgia was failing the 6th grade. Mrs. Brown blamed the school for this situation. There were constant complaints about the family and these complaints were especially directed toward the alleged undesirable behavior of Ellen. Ellen was extremely overweight and appeared in the community with undesirable associates and inappropriately dressed.

The doctor told the worker that Mrs. Brown's condition was more emotional than physical. His treatment had consisted of harmless sedatives. The doctor indicated that referral to the Mental Health Clinic would be helpful and cooperated in this plan.

The project worker saw the two major problems as being the need for regular employment for Mr. Brown and Mrs. Brown's disturbed emotional condition. She focused first on encouraging Mr. Brown in renewed efforts toward employment. With his permission, an appointment was made with the Vocational Rehabilitation Service. The VRS counselor helped Mr. Brown secure employment through the employment office. His failure to secure one job was due to his unkempt appearance. He was helped to recognize the need for better grooming and after one or two additional set-backs secured regular employment. This employment eased the family's financial pressure

and enabled Mr. Brown to assume full responsibility for his family's needs.

It was recognized that Mrs. Brown could not accept early referral to the Mental Health Clinic. She was first encouraged to support Mr. Brown in going to Vocational Rehabilitation Service. As she participated in this plan, Mrs. Brown's self respect was increased. The attention of the worker also helped fill the gap created by the inattentiveness of Mr. Brown's family. The relationship which was established enabled Mrs. Brown to talk about her own difficulties. From the account she gave of her discussion with the doctor, there was indication she recognized that some of her illness was psychosomatic. The services of the Mental Health Clinic were explained and accepted by Mrs. Brown. It took the setting of three appointments and the securing of an outfit of clothing and furnishing transportation before Mrs. Brown could meet

her first appointment at the clinic. Six other appointments quickly followed in which Mrs. Brown showed consistent improvement. The psychologist suggested that the greatest help to Mrs. Brown could be given through a strong, supportive and reinforcement role by the Clinic and the caseworker.

Simultaneously, Mr. Brown and one of the children were helped to secure glasses through the Alabama Sight Conservation program. Efforts were made to secure dental care for Mrs. Brown and another child. Vocational training for Ellen was explored with the family. The worker's discussion with school personnel enabled her to help the family to better understand and correct some of the children's school problems.

Mr. Brown consistently secured better employment through his own efforts. The last job took the family to

another county. Ellen decided not to accept the vocational training offered. She secured work in another town and boarded with her maternal grandparents. Before the family left the county, the children were attending school regularly and doing acceptable work. Joe's picture with an FHA group appeared in the newspaper and the worker took the picture to the family. This interest in Joe resulted in increased pride on the part of the family in their accomplishments.

Mrs. Brown's emotional stability and physical appearance showed improvement. After moving to the other county, Mrs. Brown wrote to express appreciation for the help of the agency and the Mental Health Clinic. She proudly wrote that Mr. Brown's relatives no longer looked down on her and visited her more frequently than when she lived near them.

Mr. Brown's adequate employment and Mrs. Brown's improved emotional condition were factors which strengthened this family. Correction of some of the physical problems of the children and counseling with them added to the family's progress. The Mental Health Clinic Worker wrote to Mrs. Brown offering continuing help (the family's proximity would permit this offer). While it is expected that this family will have periods of disruption, it is believed that they will make effort on their own to get help in these stressful periods.

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Mother: Miss Smith 22 yrs.

Children: Robert 5 yrs., Jim 4 yrs., Mary 3 yrs.

Miss Smith and her three children had been receiving ADC for approximately a year and a half when the case was accepted by the project. As a child, Miss Smith and

her mother had received ADC for several years. Her mother maintained good standards of cleanliness and order in the home and, although the home was crowded, it always gave a comfortable appearance. Miss Smith stopped school in the 10th grade because of pregnancy.

Miss Smith was an intelligent person who appeared to have many strengths. She loved her children and tried hard to improve her standard of living. She had attempted to make plans for child-care so she could work to help meet the family's needs. Miss Smith had difficulty relating to people; she was extremely reserved, vague in giving information, rarely smiled, and gave the appearance of being unhappy.

Little was known about the children at time of referral to the project other than the mother said they were in good health but had not had their immunizations.

Mr. Moore, the father of Robert and Jim, had verbally acknowledged paternity of these children when the mother first received ADC. He was irregularly employed, however, and could not contribute to their support. His interest in his children and their activities was most apparent. Miss Smith had named a different father for Mary, but he had not been interviewed.

Initially, considerable time was spent in establishing an appropriate working relationship with Miss Smith.

Attention was first directed to Miss Smith's expressed request for help in making plans for child care so that she could secure work. She readily accepted a foster family-day-care-plan for the children and followed through on employment as a maid in a large office building which paid more than she had ever received. In the beginning, there were complaints about Miss Smith's disposition, her inability

to take constructive criticism, and her seemingly unfriendly manner. Miss Smith was encouraged to try to improve in these areas. The worker also helped the employer understand some of Miss Smith's problems. In a short while, Miss Smith began to respond to the interest shown in her; she became more friendly, smiled more frequently, and did her job well.

The children were given their immunizations. It was observed that one child had abnormally bowed legs and referral was made to the Crippled Children's Service. The worker helped the foster family day care mother and Miss Smith in the physical habits of the children.

Miss Smith gained confidence in the worker and agency when she secured a better job and satisfactory plans were made for the children. She continued to have difficulty in discussing the father-relationship to the children. She was reticent about her relationship with Mr. Moore and when it was suggested that she ask him to come to the agency for a conference, she did not follow through. Mr. Moore and the alleged father of Mary were located and interviewed. When the alleged father of Mary denied paternity, Miss Smith said the worker had misunderstood the name she had given and named a different man. He, too, denied paternity.

Several interviews were held with Mr. Moore, who was helped to secure a better job. He acknowledged paternity of Mary and agreed to make weekly contributions toward her support. Although Miss Smith insisted that Mr. Moore was not Mary's father, and he later denied paternity, things went more smoothly for a while following his agreement to contribute. There were indications of a continuing relationship but these could not be verified.

Several months later, Miss Smith came to the office saying she wanted to talk to the worker about the facts

in her situation. She said she was four months pregnant by Mr. Moore and that he *was* also the father of Mary. Later, in an interview with Miss Smith and Mr. Moore, it was learned that Mr. Moore had initiated proceedings for a divorce and was making weekly payments on the cost. They had figured out the date for their marriage.

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When the project was closed, this case was transferred to a child welfare worker who will supervise the children in the foster-family-day-care home. She will also work closely with Miss Smith and Mr. Moore. Mr. Moore is working regularly now. Maternity leave has been secured for Miss Smith and tentative arrangements have been made for an aunt to care for the expected baby.

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C. SCHEDULE FORMS AND INSTRUCTIONS

NOTE: Form and instructions for securing information regarding Characteristics of Families Receiving Aid to Dependent Children for project cases same as those used by U. S. Department of Health, Education, and Welfare for Biennial Report.

PROBLEM AREA AND SERVICE ACTION RECORD

(To be filed in case record)

Worker _____ Case Name _____

Date Sheet Begun _____ Case Number _____

PROBLEM AREA			SERVICE ACTION			REPORT ON ACTION COMPLETED OR DISCONTINUED				
Date Identified	Code	(Describe problem(s) and individual(s) affected by problem(s))	Date Begun	Code	Describe service action (Purposes: (1) future reference of worker (2) explanation of code when indicated on code sheet)	Date Completed	Date Discontinued	Status of Problem at Time of Report: Code	Status of Problem at Time of Report: (Use to explain code when indicated on code sheet)	Date Reported to R & S

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Instructions for Problem Area and Service Action Record

The *Problem Area and Service Action Record* has been designed for purposes of identifying all problem areas, the specific nature of all services initiated, the point at which each service is completed or discontinued, and the status of the problem at the time at which a report of the action taken is submitted to the Bureau of Research and Statistics. Although most, if not all, of the information appearing on the *Problem Area and Service Action Record* will be contained in the case record also, it is believed that the easy accessibility of this record sheet will greatly assist the worker in planning her activities in connection with each case and will provide a useful tool for purposes of supervision. At least one *Problem Area and Service Action Record* sheet is to be prepared and filed in the case record folder for each case. Additional sheets are to be used as additional space is needed. Codes for identifying problem areas are printed on a separate sheet, as well as codes for *Service Action* and *Status of Problem.*

Specific Instructions

Problem Area

Date Identified.—Enter the month and year in which the problem area is identified. (Even if the agency provided some service prior to the beginning of this project, the date entered should not antedate the project.)

Code.—Enter the code appearing on the list of problem area codes which most nearly describes the particular problem involved.

Explanation.—Using similar terminology to that appearing on the code list but more specific phraseology as necessary, describe the nature of the problem.

Service Action

Date Begun.—Enter the month and year each service action is begun. (Even if the agency actually started the action prior to this project, a date should be entered in this column, if the action is continued after the beginning of the project. In such an instance, however, the date entered should not antedate the project.)

Code.—Enter the codes which most nearly describe the actions initiated in connection with each problem area identified.

Explanation.—Using similar terminology to that appearing on the code list but more specific phraseology as necessary, describe the nature of each service action.

Report on Action Completed or Discontinued

Date Completed.—For any service action which is completed during the course of the project, enter the month and year the action is completed. For the purposes of this project, an action is properly considered as completed when the purpose for which it was begun has been accomplished irrespective of any change in the problem with which the service was connected.

Date Discontinued.—For any service action which is discontinued prior to completion, enter the month and year the action is discontinued. For the purposes of

this project, an action is properly considered as discontinued when the purpose for which it was begun has not been accomplished but no further efforts are to be made. Any action which has been started but which has not been completed on a case transferring to some other county in the state, is *always* considered as discontinued. Likewise any action which has been started but which has not been completed at the time of closing is *always* considered as discontinued unless the case is to be continued for service after the withdrawal of the grant.

Status of Problem at the Time of Report.—Whenever a case is transferred to some other county, whenever a case is closed for public assistance, or whenever the State Office requests the information on all project cases, select the code which, according to the judgment of the worker, most nearly describes the status of the problem at the time. Add any information needed, according to the instructions appearing on the code list, and enter the month and year the information is sent to the Bureau of Research and Statistics.

(Note: The *Problem Area and Service Action Record,* itself, is never sent to the Bureau of Research and Statistics. Instead, information appearing on this sheet is summarized on the form designed for the purpose, the *Summary of Problem Area and Service Action Record.)*

Summary of Problem Area and Service Action Record

(To Be Submitted to Bureau of Research and Statistics)

Case Name ..... Case No. .....

Problem Areas (Circle appropriate codes)	Service Actions (Enter Codes) Completed (Purpose Accomplished)	Discontinued	Continued (At time of report)	Present Status of Problem (Code)
01 Meeting unmet financial needs				
02 Developing potential resources				
03 Other financial needs*				
04 Vocational skill or training				
05 Vocational rehabilitation				
06 Job placement				
07 Locating employment needed to become covered under OASDI				
08 Other employment areas*				
09 Counselling regarding inability to manage on limited budget				
10 Counselling regarding inability to cope with family problems of adjustment to inadequate income				
11 Counselling regarding unawareness of or inability to use community resources				
12 Other counselling areas*				
13 Adult: Physical illness or handicap				
14 Adult: Mental deficiency or retardation				
15 Adult: Emotional maladjustment				
16 Adult: Acceptance of physical or mental disability by family				
17 Adult: Adjustment to prolonged illness				
18 Adult: Unawareness of existing facilities for preventive and curative health care				
19 Adult: Hesitancy to use resources when known				
20 Adult: Other adult health areas*				
21 Child: Mental deficiency or retardation				
22 Child: Emotional maladjustment				
23 Child: Physical illness or adjustment				
24 Child: Immunizations				
25 Child: Other child health areas*				
26 Understanding of individual differences				
27 Acceptance of responsibility				
28 Inability to give and receive affection				
29 Unpleasant relations resulting from the presence in home of an aged, chronically ill or emotionally deficient person				

Summary of Problem Area and Service Action Record

(To Be Submitted to Bureau of Research and Statistics)

Case Name ..... Case No. .....

Problem Areas (Circle appropriate codes)	Service Actions (Enter Codes) Completed (Purpose Accomplished)	Discontinued	Continued (At time of report)	Present Status of Problem (Code)
30 Other relationship areas*				
31 Child neglect or abuse				
32 Unmarried parenthood				
33 Promiscuity or prostitution				
34 Desertion or abandonment of family				
35 Marital conflict				
36 Excessive drinking				
37 Law violation				
38 Other adult behavior areas*				
39 Truancy				
40 Stealing				
41 Beyond control of parent or person acting as parent				
42 Undesirable associates				
43 Other child behavior areas*				
44 School attendance				
45 Unsatisfactory progress				
46 Special education*				
47 Other school areas*				
48 Training for trade within present mental and physical ability				
49 Additional skill on present job or to receive promotion				
50 Motivation to secure needed training				
51 Other educ. & vocational training areas*				
52 Undesirable neighborhood				
53 Homemaking knowledge and information				
54 Special care arrangement*				
55 Other inadequate living arrangements*				
56 Adult: Recreational outlets				
57 Child: Recreational outlets				
58 Other recreational areas*				

* Explain on reverse side in accordance with instructions accompanying codes.

Explanation of "Other" Problem Area Codes

Code	Problem Areas Explanation of "Other" Service	Service Actions (Enter Codes) Completed (Purpose Accomplished)	Discontinued	Continued (At time of report)	Present Status of Problem (Code)

Explanation of "05" and "06" Problem Status Codes

Problem Area Code	List of Needed Resources (Code 05)	Explanation of "Other Reason" For Lack of Improvement (Code 06)

Problem Codes for ADC Project

Code

Financial, including *Employment*

01 Need for help in meeting unmet financial expenses

02 Need to develop potential resources

03 Other financial needs (explain)

04 Lack of vocational skill or training

05 Need for vocational rehabilitation

06 Need for job placement (part time or full time)

07 Need for help in locating employment when needed to become covered under OASDI

08 Other employment areas (specify)

Need for counselling service regarding:

09 a. inability to manage on limited budget

10 b. inability to cope with family problems related to adjustment to inadequate income

11 c. unawareness of or inability to use community resources

12 d. other counselling areas (specify)

Health

Adult Health

13 Physical illness or handicap

14 Mental deficiency or retardation

15 Emotional maladjustment

16 Inability of family members to accept physical or mental disability

17 Difficulty in adjusting to prolonged illness

18 Unawareness of existing facilities for preventive as well as curative health care

19 Hesitancy to use resources when they are known

20 Other adult health areas (explain)

Child Health

21 Mental deficiency or retardation

22 Emotional maladjustment

23 Physical illness or handicap

24 Need for immunizations

25 Other child health areas (specify)

Relationships

26 Lack of understanding of individual differences

27 Inability to accept responsibility

28 Inability to give or receive affection

29 Unpleasant relations resulting from the presence in the home of an aged, chronically ill or mentally deficient person

30 Other relationship areas (specify)

Adult Behavior

31 Child neglect or abuse

32 Unmarried parenthood

33 Promiscuity or prostitution

34 Desertion or abandonment of family

35 Marital conflict

36 Excessive drinking

37 Law violation

38 Other adult behavior areas (explain)

Problem Area Codes for ADC Project

Code

Child Behavior

39 Truancy

40 Stealing

41 Beyond control of parent or person acting as parent

42 Undesirable associates

43 Other child behavior areas (explain)

Education and Vocational Training

For a Child (Use only for child between 7-17 years of age)

44 Failure to attend school (for reason other than intellectual, emotional, or physical condition) or irregular school attendance

45 Unsatisfactory school progress (including failure or low grades)

46 Need for special education (as for home-bound child, deaf or blind child) (specify)

47 Other school areas (explain)

For an adult

48 Inability to earn a living because of lack of training for a trade within present mental and physical ability

49 Need for additional skill on present job or to receive a promotion

50 Lack of motivation to secure training that he needs

51 Other education and vocational training areas (for adult) (specify)

Inadequate Living Arrangements and Care

52 Undesirable and unhealthful housing or neighborhood

53 Lack of knowledge of homemaking

54 Need for boarding care, nursing care, or other special care arrangements (specify)

55 Other inadequate living arrangements (explain)

Recreation

56 Lack of appropriate recreational outlets for children

57 Lack of appropriate recreational outlets for adult(s)

58 Other recreational areas (explain)

Service Action Codes

Code

Direct Action of Worker to Assist Client

01 Locate absent parent

02 Encourage absent parent to write family; maintain family ties

03 Arrange with father for contributions to children's support

04 Support and help parent secure employment

Help parent develop potential resources such as:

05 a. planting garden

06 b. arranging for milk for children

07 c. utilizing available small acreages

08 d. developing greater skill in keeping the house

09 e. developing greater skill in planning meals

10 f. developing greater skill in caring for sick members

Encourage and support parent in using resources to:

a. maintain and strengthen family life

b. obtain medical care

c. vocational training

d. cooperate with VRS representative in attaining physical and/or vocational rehabilitation

Use of Agency Resources

Approve for other type of categorical assistance when appropriate

Refer to child welfare for help with special problems relating to children

Use of State and Community Resources

Direct action of worker to procure community resources. This includes referral to and support in use of community resources.

Alabama Sight Conservation Association, Inc.

Alabama Society for Crippled Children and Adults

Alabama Cancer Society

Alabama Tuberculosis Association

Alcoholism Clinics

American Legion Auxilliary

American National Red Cross

Adjustment Training for the Adult Blind, Talladega

Child Caring Institutions and Agencies

26 Civic Clubs

27 Churches

28 Congenital Heart Disease Clinic, Jefferson-Hillman Hospital

29 County Health Departments

30 Correctional Schools

31 Day Care Centers

32 District Social Security Field Offices

33 Mental Health Clinics

34 Parent Teacher Organizations or Associations

35 Partlow State School

36 Public Schools

37 Speech-Hearing Clinic, Montevallo

38 State Schools for Deaf and Blind

39 State Employment Service

40 State Mental Hospitals

41 Travelers Aid Society

42 Veterans Administration Hospital

43 Veterans Administration Regional Office

44 Vocational Rehabilitation Service

45 Y.M.C.A.

46 Y.W.C.A.

47 Other

Community Participation and Planning for Services

48 Point up need for and work with groups in community to develop resources to meet particular needs

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Codes for Status of Problem at Time of Report

Code

00 Case transferred out of project

01 Problem corrected

02 Problem remains with improvement

Problem remains without improvement because of:

- 03 Chronic nature of problem
- 04 Client attitude
- 05 Proper resources not available (explain on Problem Area and Service Action Record Sheet)
- 06 Other reason (explain on Problem Area and Service Action Record Sheet)

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Summary of Problem Area and Service Action Record

The Summary of Problem Area and Service Action Record serves as the means by which the worker notifies the State office of the information contained in the case record on the Problem Area and Service Action Record Sheet. There are two occasions on which the Summary Sheet is always prepared—whenever a project case is closed and whenever a project case is transferred to some other county in the State. Otherwise, the Summary Sheet is

prepared whenever the information is requested by the State office in connection with all cases remaining in the project—probably at the end of the project period.

Specific Instructions

Problem Areas—Circle as many codes as necessary to indicate all problem areas identified for service as shown on the Problem Area and Service Action Record Sheet. Whenever a code is circled for which an explanation is required according to the instructions appearing on the code lists, write in the explanation on the back of the Summary Sheet. These codes are as follows: 03, 08, 12, 20, 25, 30, 38, 43, 46, 47, 51, 54, 55, and 58 (Note: Whenever more than one problem area is covered by a single code, the code should be repeated as many times as necessary and information reported separately for each area on the back of the Summary Sheet.)

Service Actions

Completed—Following each problem area, enter all codes indicating service actions which have been completed as shown on the Problem Area and Service Action Record Sheet.

Discontinued—Following each problem area, enter all codes indicating service actions which have been discontinued as shown on the Problem Area and Service Action Record Sheet.

Continued—Following each problem area, enter all codes indicating service actions which are being continued at the time of report. Continued service actions, of course, are those which are shown on the Problem Area and Service Action Record Sheet as having been begun but not as having been completed or discontinued.

Present Status of Problems

Problem Status Code—Following each problem area, enter the code describing the status of the problem at the time of report as shown on the Problem Area and Service Action Record Sheet. Whenever code 05 or code 06 is used, write in the explanation required for these codes on the back of the Summary Sheet.

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Supplementary Report on Characteristics of ADC Family

(To be submitted to Bureau of Research and Statistics)

Case Name .....

Status of Case ☐ Closing

☐ Transfer

☐ Special Report

Case Number .....

Effective Date of Closing .....

Effective Date of Transfer .....

Date of Report .....

A. Current Budget Sheet Information

a. Amount of monthly requirements ..... $.....

b. Amount of monthly income ....

c. Deficit (a minus b) ....

d. Amount of ADC payment ....

e. Amount of unmet need (c minus d) ....

f. Total number of persons in budget ....

B. Detail of Income Shown in Item A-b

Income other than assistance

a. Total ..... $.....

Cash income:

Earnings of person(s) in ADC assistance or budget group:

b. Mother ....

c. Father ....

e. Other person(s) ....

d. Children ....

f. Contributions from absent father ....

g. OASDI benefits ....

h. Other cash income and resources ....

j. Income in kind to which a money value is given ....

C. Status of father with respect to eligibility of children for ADC (Circle one):

0. Dead

1. Incapacitated (in home or elsewhere)

Absent

2. Divorced or legally separated

3. Separated without court decree

4. Deserting

5. Not married to mother

6. Imprisoned

7. Absent for other reason

8. Other status

D. Whereabouts of father (circle one):

0. Inapplicable—father dead

1. In Home

Not in home:

2. In same county as family

3. In same State but not same county

4. Elsewhere—whereabouts known

5. Elsewhere—whereabouts unknown

Supplementary Report on Characteristics of ADC Family

The *Supplementary Report on Characteristics* has been designed in order to make two comparisons in connection with all ADC project cases—(1) a comparison between the budget in effect when the first Characteristics Schedule and the Summary of Problem Area and Service Action sheet are prepared and (2) a comparison between the status and whereabouts of the father(s) at the same two points in our study. A Supplementary Report always accompanies the Summary of Problem Area and Service Action Record sheet to the Bureau of Research and Statistics. This means, like the Summary Record sheet, a Supplementary Report is prepared (1) whenever a project case is closed (2) whenever a case is transferred to some other county and (3) whenever summary information is requested by the Bureau of Research and Statistics in connection with all cases remaining on the project—probably at the very end of the project.

PLAINTIFFS' EXHIBIT 25.

Memorandum

March 22, 1967

To: Mrs. Mary Lee Stapp
Legal Advisor

From: Margaret Jordan, Director
Bureau of Research and Statistics

Subject: *ADC Cases Closed or Applicants Denied Aid During July 1966 Because of Substitute Parent Policy for Specified Counties*

In acordance with your request we are attaching information with reference to *ADC Cases Closed or Applicants Denied Aid During July 1966 Because of Substitute Parent Policy* for the following counties:

Baldwin
Chambers
Clarke
Dallas
Greene
Montgomery
Russell

cc: Mr. King

STATE OF ALABAMA
DEPARTMENT OF PENSIONS AND SECURITY
Montgomery

Table 1.

NUMBER OF ADC CASES CLOSED OR APPLICANTS DENIED AID DURING JULY 1966
BECAUSE OF SUBSTITUTE PARENT POLICY FOR SPECIFIED COUNTIES BY RACE *

COUNTY	TOTAL			APPLICATIONS DENIED			CASES CLOSED		
	Total	White	Negro	Total	White	Negro	Total	White	Negro
TOTAL	16	0	16	6	0	6	10	0	10
Baldwin	2	0	2	1	0	1	1	0	1
Chambers	3	0	3	2	0	2	1	0	1
Clarke	1	0	1	0	0	0	1	0	1
Dallas	5	0	5	2	0	2	3	0	3
Greene	2	0	2	0	0	0	2	0	2
Montgomery	2	0	2	1	0	1	1	0	1
Russell	1	0	1	0	0	0	1	0	1

* See Manual for Administration of Public Assistance, Chapter II, Page 24, Section V, A. (1), (2), and (3).

Prepared by: Bureau of Research and Statistics
March 22, 1967

STATE OF ALABAMA
DEPARTMENT OF PENSIONS AND SECURITY
Montgomery

Table 2.

NUMBER OF ADC CASES CLOSED OR APPLICANTS DENIED AID DURING JULY 1966 BECAUSE OF SUBSTITUTE PARENT POLICY FOR SPECIFIED COUNTIES BY PROVISIONS OF POLICY*

COUNTY	PROVISIONS OF POLICY											
	Total				Applications Denied				Cases Closed			
	Total	In the Home	In and Out of Home	Prima Facie Evidence	Total	In the Home	In and Out of Home	Prima Facie Evidence	Total	In the Home	In and Out of Home	Prima Facie Evidence
TOTAL	16	2	3	11	6	1	0	5	10	1	3	6
Baldwin	2	0	0	2	1	0	0	1	1	0	0	1
Chambers	3	0	0	3	2	0	0	2	1	0	0	1
Clarke	1	1	0	0	0	0	0	0	1	1	0	0
Dallas	5	1	1	3	2	1	0	1	3	0	1	2
Greene	2	0	1	1	0	0	0	0	2	0	1	1
Montgomery	2	0	0	2	1	0	0	1	1	0	0	1
Russell	1	0	1	0	0	0	0	0	1	0	1	0

* See Manual for Administration of Public Assistance, Chapter II, Page 24, Section V, A. (1), (2), and (3).

Prepared by: Bureau of Research and Statistics
March 22, 1967

STATE OF ALABAMA
DEPARTMENT OF PENSIONS AND SECURITY
Montgomery

Table 3.

NUMBER OF ADC CASES CLOSED OR APPLICANTS DENIED AID DURING JULY 1966
BECAUSE OF SUBSTITUTE PARENT POLICY FOR SPECIFIED COUNTIES
BY SOURCE OF EVIDENCE AND PROVISIONS OF POLICY*

SOURCE OF EVIDENCE	PROVISIONS OF POLICY											
	Total				Applications Denied				Cases Closed			
	Total	In the Home	In and Out of Home	Prima Facie Evidence	Total	In the Home	In and Out of Home	Prima Facie Evidence	Total	In the Home	In and Out of Home	Prima Facie Evidence
TOTAL	16	2	3	11	6	1	0	5	10	1	3	6
Client	6	1	0	5	4	1	0	3	2	0	0	2
Neighbors	1	1	0	0	0	0	0	0	1	1	0	0
Client Plus Other Source	6	0	2	4	1	0	0	1	5	0	2	3
Fatner	2	0	1	1	1	0	0	1	1	0	1	0
Relative	1	0	0	1	0	0	0	0	1	0	0	1

* See Manual for Administration of Public Assistance, Chapter II, Page 24, Section V, A. (1), (2), and (3).

Prepared by: Bureau of Research and Statistics
March 22, 1967

PLAINTIFFS' EXHIBIT 27.

Excerpts From Minutes of Meeting of State Board of Pensions and Security Held September 29, 1964.

B. *Aid to Dependent Children Policies*—The recent changes in ADC policies which had been approved by correspondence with the Board on June 29, 1964, were reviewed by the Commissioner. It was pointed out that the policies were put into effect following a review of ADC cases in an attempt to put the responsibility for the support of children on their parents. Under one of the policies, if parents leave children with relatives for their own convenience but retain contact with them, the children are not considered deprived of parental support and are, therefore, not eligible for ADC. In many instances the Board was told that parents had left the county or State, secured good jobs but refused to contribute to the support of their children. They were left with grandparents or other relatives who were unable to care for them and had been receiving ADC until this policy was adopted. In the discussion Commissioner King pointed out that failure to support children in Alabama was a misdemeanor and not a felony but he hoped that legislation would be enacted in the next session to strengthen the non-support laws.

Under the second ADC policy county departments are directed to consider a man a substitute father and liable for support of all children in a home if, though not married to the mother, he has privileges of a husband. Pregnancy or a six months old child is accepted as prima facie evidence that the man is a substitute father. In discussing this policy the Board was advised that mothers removed under this policy could come back to the agency with proof that the relationship had been broken and be reinstated. Commissioner King indicated that the Fed-

eral government had question about this policy and regional representatives of Health, Education and Welfare had made a visit to Alabama to discuss some kind of compromise. Mrs. Lambard raised question as to whether notice had been given to persons removed. It was pointed out by Commissioner King that approximately 2 months had already elapsed since the ADC cases had been removed. He stated that the Federal government would probably compromise if the agency would restore the 7,000 or 8,000 children removed by this policy to the ADC rolls and give two months notice before removing such persons. He pointed out, however, that he did not think the Board should be in a position of subsidizing such relationships. He thought the question centered around whether the Commissioner and the State Board were in a better position to prescribe the policies for Alabama than the Federal government. He hoped that the agency could work out some kind of agreement with the Federal government but in the event this could not be done, he would like to have the Board's approval to proceed with a request for an administrative hearing on this policy. He indicated to the Board that if the matter could not be cleared by an administrative hearing he would call them back into session before making a decision about a court hearing on the policy. In the discussion the Commissioner reemphasized his interest in the ADC program and spoke of his real concern about the low ADC grants. He told the Board that the new policies were not intended to hurt children but to place the burden of support where it belonged.

Several Board members pointed out that the ADC program had been criticized severely and that the people wanted this particular policy. They also thought that the agency was doing right in placing the responsibility on the mother to prove that the relationship had been discontinued. After considerable discussion, Mrs. Reavis

moved, and Mr. Whiddon seconded the motion, that the ADC policy be ratified and that the Commissioner be given authority to proceed with an administrative hearing with full backing of the Board. The motion carried unanimously.

State of Alabama
Governor's Office
Montgomery

July 3, 1964

Mr. Ruben King, Commissioner
Department of Pensions & Security
State of Alabama
Montgomery, Alabama

Dear Ruben:

In reference to your letter of June 29 regarding certain policies which you asked me to approve or disapprove, I approved number one and number two. However, I do feel that an effort should be made in each case to require support, if necessary through the courts, of these children by the parents or those who would be declared responsible in the Number Two policy.

I do not want any policy that would deprive a child of care when it was needed, however, I feel that these policies will work.

Sincerely yours,

/s/ GEORGE C. WALLACE
GEORGE C. WALLACE
Governor

GCW:ah

Enclosure

State of Alabama
Montgomery

June 29, 1964

Honorable George C. Wallace, Chairman
State Board of Pensions and Security
State Capitol
Montgomery, Alabama

Dear Governor Wallace:

I believe that it is necessary to adopt certain policies which will restrict the Aid to Dependent Children program because of the large case load. Attached are copies of policy changes which will affect the number of cases eligible for ADC.

I know you share my concern about the ADC program. Therefore, I am asking you to indicate your approval or disapproval of the two policies included in the attachments which are summarized briefly below:

1. A child cannot be considered deprived of parental support if the parents are living elsewhere together but leave the children with other relatives, either because the parents do not wish the responsibility for the children or the relatives wish to keep the children. If you approve this policy, such children will not be eligible to receive ADC.

APPROVED X DISAPPROVED ....

2. A man living in the home with an ADC applicant or recipient for the purpose of cohabiting; or visiting frequently for the purpose of cohabiting; or having recently cohabited with the applicant or recipient as evidenced by her pregnancy or a newborn baby, is considered a substitute father of all children of the applicant or recipient.

The children in such cases would not be eligible to receive ADC.

APPROVED X DISAPPROVED ....

I shall appreciate your indicating your action on these policies and returning the original of this letter to me at the earliest possible date. The copy and attachments may be kept for your files.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Attachments

State of Alabama
Montgomery

June 29, 1964

Honorable James Record, Vice-Chairman
State Board of Pensions and Security
P. O. Box 589
Huntsville, Alabama

Dear Mr. Record:

I believe that it is necessary to adopt certain policies which will restrict the Aid to Dependent Children program because of the large case load. Attached are copies of policy changes which will affect the number of cases eligible for ADC.

I know you share my concern about the ADC program. Therefore, I am asking you to indicate your approval or disapproval of the two policies included in the attachments which are summarized briefly below:

1. A child cannot be considered deprived of parental support if the parents are living elsewhere together but leave the children with other relatives, either because the parents do not wish the responsibility for the children or the relatives wish to keep the children. If you approve this policy, such children will not be eligible to receive ADC.

APPROVED ✓ DISAPPROVED ....

2. A man living in the home with an ADC applicant or recipient for the purpose of cohabiting; or visiting frequently for the purpose of cohabiting; or having recently cohabited with the applicant or recipient as evidenced by her pregnancy or a newborn baby, is considered a substitute father of all children of the applicant or recipient. The children in such cases would not be eligible to receive ADC.

APPROVED ✓ DISAPPROVED ....

I shall appreciate your indicating your action on these policies and returning the original of this letter to me at the earliest possible date. The copy and attachments may be kept for your files.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Attachments

State of Alabama
Montgomery

June 29, 1964

Mrs. Mary Ella Reavis, Member
State Board of Pensions and Security
823 North 20th Street
Birmingham, Alabama

Dear Mrs. Reavis:

I believe that it is necessary to adopt certain policies which will restrict the Aid to Dependent Children program because of the large case load. Attached are copies of policy changes which will affect the number of cases eligible for ADC.

I know you share my concern about the ADC program. Therefore, I am asking you to indicate your approval or disapproval of the two policies included in the attachments which are summarized briefly below:

1. A child cannot be considered deprived of parental support if the parents are living elsewhere together but leave the children with other relatives, either because the parents do not wish the responsibility for the children or the relatives wish to keep the children. If you approve this policy, such children will not be eligible to receive ADC.

APPROVED Yes DISAPPROVED ....

2. A man living in the home with an ADC applicant or recipient for the purpose of cohabiting; or visiting frequently for the purpose of cohabiting; or having recently cohabited with the applicant or recipient as evidenced by her pregnancy or a newborn baby, is considered a substitute father of all children of the applicant or recipient.

The children in such cases would not be eligible to receive ADC.

APPROVED Yes DISAPPROVED ....

I shall appreciate your indicating your action on these policies and returning the original of this letter to me at the earliest possible date. The copy and attachments may be kept for your files.

Cordially yours,

/s/ RUBEN K. KING,
RUBEN K. KING,
Commissioner.

Attachments

State of Alabama
Montgomery

June 29, 1964

Honorable Hugh Kirkland, Member
State Board of Pensions and Security
Newville, Alabama

Dear Mr. Kirkland:

I believe that it is necessary to adopt certain policies which will restrict the Aid to Dependent Children program because of the large case load. Attached are copies of policy changes which will affect the number of cases eligible for ADC.

I know you share my concern about the ADC program. Therefore, I am asking you to indicate your approval or disapproval of the two policies included in the attachments which are summarized briefly below:

1. A child cannot be considered deprived of parental support if the parents are living elsewhere together but

leave the children with other relatives, either because the parents do not wish the responsibility for the children or the relatives wish to keep the children. If you approve this policy, such children will not be eligible to receive ADC.

Approved √ Approved Disapproved.....

2. A man living in the home with an ADC applicant or recipient for the purpose of cohabiting; or visiting frequently for the purpose of cohabiting; or having recently cohabited with the applicant or recipient as evidenced by her pregnancy or a newborn baby, is considered a substitute father of all children of the applicant or recipient. The children in such cases would not be eligible to receive ADC.

Approved √ Approved Disapproved.....

I shall appreciate your indicating your action on these policies and returning the original of this letter to me at the earliest possible date. The copy and attachments may be kept for your files.

Cordially yours,

/s/ RUBEN K. KING
RUBEN K. KING
Commissioner

Attachments Hugh Kirkland

State of Alabama
Montgomery

June 29, 1964

Mrs. Mildred E. Lambard, Member
State Board of Pensions and Security
207 Malaga Avenue
Birmingham, Alabama

Dear Mrs. Lambard:

I believe that it is necessary to adopt certain policies which will restrict the Aid to Dependent Children program because of the large case load. Attached are copies of policy changes which will affect the number of cases eligible for ADC.

I know you share my concern about the ADC program. Therefore, I am asking you to indicate your approval or disapproval of the two policies included in the attachments which are summarized briefly below:

1. A child cannot be considered deprived of parental support if the parents are living elsewhere together but leave the children with other relatives, either because the parents do not wish the responsibility for the children or the relatives wish to keep the children. If you approve this policy, such children will not be eligible to receive ADC.

Approved X Disapproved.....

2. A man living in the home with an ADC applicant or recipient for the purpose of cohabiting; or visiting frequently for the purpose of cohabiting; or having recently cohabited with the applicant or recipient as evidenced by her pregnancy or a newborn baby, is considered a substitute father of all children of the applicant or recipient.

The children in such cases would not be eligible to receive ADC.

Approved X Disapproved.....

I shall appreciate your indicating your action on these policies and returning the original of this letter to me at the earliest possible date. The copy and attachments may be kept for your files.

Cordially yours,

/s/ RUBEN K. KING
RUBEN K. KING
Commissioner

MILDRED E. LAMBARD

Attachments

State of Alabama
Montgomery

June 29, 1964

Honorable William M. Clarke, Member
State Board of Pensions and Security
Suite 720, 1st National Bank Building
Mobile, Alabama

Dear Mr. Clarke:

I believe that it is necessary to adopt certain policies which will restrict the Aid to Dependent Children program because of the large case load. Attached are copies of policy changes which will affect the number of cases eligible for ADC.

I know you share my concern about the ADC program. Therefore, I am asking you to indicate your approval or

disapproval of the two policies included in the attachments which are summarized briefly below:

1. A child cannot be considered deprived of parental support if the parents are living elsewhere together but leave the children with other relatives, either because the parents do not wish the responsibility for the children or the relatives wish to keep the children. If you approve this policy, such children will not be eligible to receive ADC.

Approved √ WC Disapproved.....

2. A man living in the home with an ADC applicant or recipient for the purpose of cohabiting; or visiting frequently for the purpose of cohabiting; or having recently cohabited with the applicant or recipient as evidenced by her pregnancy or a newborn baby, is considered a substitute father of all children of the applicant or recipient. The children in such cases would not be eligible to receive ADC.

Approved √ WC Disapproved.....

I shall appreciate your indicating your action on these policies and returning the original of this letter to me at the earliest possible date. The copy and attachments may be kept for your files.

Cordially yours,

/s/ RUBEN K. KING
RUBEN K. KING
Commissioner

Attachments

PLAINTIFFS' EXHIBIT 28.

Bureau of Family Services

Mr. Fred H. Steininger
Director

March 14, 1967

F. Pauline Godwin, Assistant Chief
Division of Program Operations

Materials Requested to Complete Record on Alabama Proceedings.

This is in reply to your memo of 3/8 to me for information on racial characteristics in Alabama, and other Southern States and to the Berman memo of 3/9/67 to you which you sent to me 3/10/67, listing the materials he understood from his notes we were to supply for the Alabama proceedings. Copies of these memos are attached for your reference.

The information that we have available requested in your 3/8 memo is included in the attached statement on "Materials for Record on Alabama Proceedings" Part I: "Statistical Data on Proportion of Negroes Receiving AFDC by Alabama, and by States, and Trends" with attachment "The Characteristic Study of AFDC Families November-December 1961". This latter report is only statistical information we have on racial characteristics and it does not provide the specific information requested by you.

Part II of the statement refers to the items listed in Mr. Berman's memo to you of 3/9/67 not included in the Part I section except item 1 (copy of Alabama Social Service Review) and item 7 (did we ever raise question with Alabama regarding "equity" in its programs). These

two items I understand you have assigned to Mr. Vernier with the question relating to quality control reviews.

Enclosures

FPGodwin/rw

Materials for Record on Alabama Proceedings

Part I Statistical Data on proportion of Negroes receiving AFDC, by Alabama, and by States, and Trends.

1. "The Characteristics Study of AFDC Families November-December 1961" is only source we have for information on race by States. A copy of the report is attached.

Table #3 gives race of AFDC families and Children by States for November 1961, within Census divisions. See South Atlantic, East South Central and West South Central divisions.

Alabama: 61.6% of child recipients were Negro.

Table #14 "AFDC non-white families by Status of father . . ."

Alabama:

13,181 non-white families

12.8% father dead

11.2% father incapacitated

76% father absent from home (of this group 38.6% fathers were not married to mother)

Table #34 "AFDC Children, by Color and legitimacy status . . ."

Alabama:

65,328 Children

35.6 white children—2% illegitimate

64.4 non-white children—25.5% illegitimate

2. Since we do not collect statistics by race, other than one time studies as noted above, we do not have information on percentages changes of whites and non-whites receiving assistance for period 1964-67. Likewise, we do not have information by race to show any percentage changes between whites and non-whites receiving AFDC because of application of substitute parent policy in Alabama or in other Southern States.

The following information for Alabama for period July 1964-June 1965 on cases closed because of application of substitute parent policy was secured by the Regional Office as a one time request to Alabama to maintain these statistics for the period reported:

Alabama—Cases Closed—July 1964-June 1965.

The revised substitute parent policy went into effect July 7, 1964.

Cases Closed	Total	Substitute Parent Policy
July 1964	—	516
August 1964	1,820	1,045
Sept. 1964	1,229	361
Total	3,049	1,922
6 mos. ended Dec. 31, 1964	6,342	
6 " " Jan. 30, 1965	3,778	2,359
		535

3. You requested information on number of applications and grants in Title IV program in Alabama in 1964:

AFDC—Calendar Year 1964

Applications

received 12,283

approved for grant ... 7,087

Assistance payments (grants)	$12,161,000
Federal share	10,003,000
Federal percentage	82.3

Part II 1. Re substitute parent policy. The Bureau of Family Services has not asked Alabama to do a review of its substitute parent policy and the Bureau has not conducted such a review.

2. Re Meeting with Alabama people in your office in October 1964. The request is to supply names of people who attended this meeting. Present: Mr. Rueben King, Commissioner, Alabama Department of Pensions and Security and Miss Elizabeth Bryan, Director of Public Assistance, Alabama Department of Pensions and Security. Also, Mr. Fred Steininger, Director, Mr. John Hurley, Deputy Director, Mr. Whitney Jansen, Chief Division of Program Operations, Miss Louise McDonnell, Assistant Chief, Division of Program Operations, and Mr. Wave Perry, Regional Representative, Region IV, of the Bureau of Family Services staff. Mr. Edward Yourman and Mr. Myron Berman, from the Office of General Counsel, were also present.

PLAINTIFFS' EXHIBIT 29.

March 21, 1967

Miss Mildred Beale, Director
Bureau of Field Service
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery, Alabama 36;04

Re: ADC Case # 8372

Dear Miss Beale:

We are enclosing our schedule form on Client X. We have stated which part of the substitute parent policy was used to terminate the assistance payment.

Sincerely yours,
/s/ EMORY S. STERN,
MRS. EMORY S. STERN,
Case Worker II.

Approved:
Mrs. Lucy K. Locklin
Director

CC: Mrs. Stapp
Mrs. Jordan
Miss Graham

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County	Greene	Circle One:
Case No.	8372	1 Application Denied
Race	Colored	(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.)* This case was closed under the section of the Substitute Parent Policy where there was a substitute father in and out of the home cohabiting with the ADC recipient.

Give below or attach a brief statement of facts leading to termination or denial of aid. The ADC recipient told the worker she was pregnant and she was still cohabiting with the father of her unborn child.

Source of evidence used to terminate or deny aid. Pregnancy of the ADC recipient as reported verbally to the worker by the ADC recipient. The ADC recipient's statement that she was still cohabiting with the father of her unborn child. The Greene County Health Department verified that the ADC recipient gave birth to a baby girl on July 17, 1966.

PLAINTIFFS' EXHIBIT 30.

Dallas County

Department of Pensions and Security
Selma, Alabama

March 13, 1967

Mr. Ruben K. King, Commissioner
State of Alabama
Department of Pensions and Security
64 N. Union Street
Montgomery, Alabama

Attention: Bureau of Research and Statistics

Dear Mr. King:

I am enclosing a schedule form for each Aid to Dependent Children case closed and for each applicant denied aid during July, 1966, because of the Substitute Parent Policy.

I am also enclosing schedule forms for two cases requesting Aid to Dependent Children in July, 1966. The mothers in these two cases signed affidavits as they had babies under one year of age.

I hope this information will be helpful. If I can be of further service, please do not hesitate to let me know.

Sincerely yours,

/s/ JEAN M. JOHNSON,
MRS. DONALD L. JOHNSON
Case Work Supervisor

Approved:

/s/ August L. Wilkinson
Mrs. Clinton S. Wilkinson, Sr., ACSW
Director

cc: Miss Mildred Bethea
Field Representative

encl.

JMJ/gm

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Dallas
Case No. 18,994
Race Colored

Circle One:
(1) Application Denied
2 Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the Manual for Administration of Public Assistance.)

The substitute father has been living in the home for four or five years and nearby for many years previous to moving into the home.

Give below or attach a brief statement of facts leading to termination or denial of aid. The mother applied for aid in July, 1966, but was denied aid as she readily admitted that the substitute father was still living in the home.

Source of evidence used to terminate or deny aid. The Mother's statement.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Dallas
Case No. 18,832
Race Colored

Circle One:
(1) Application Denied
2 Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the Manual for Administration of Public Assistance.) Substitute father is the father of six children born between the years 1952 through 1-1965. He is not living in the home but it is not known whether he frequents the home or cohabits elsewhere. He has contributed to the children's support.

Give below or attach a brief statement of facts leading to termination or denial of aid. The mother gave the name of the father of her six children, but would not say whether or not the relationship was broken. She gave permission to the worker to talk with the father who admitted that the relationship was not broken but was a continuing relationship.

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State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Dallas
Case No. 19,012
Race Colored

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) At the time of termination, the substitute father was maintaining a residence elsewhere but was in and out of the home daily. He was contributing regularly not only to his child but to the entire family. He has since moved into the home of the mother.

Give below or attach a brief statement of facts leading to termination or denial of aid. People in the community informed the agency of the above facts. When VRS counsellor requested a conference with the parent of one of the older children (not the substitute father's natural child) the substitute father appeared for the conference.

Source of evidence used to terminate or deny aid. The substitute father said that he was in and out of the home on a regular basis. This has been continuing for a period of over nine years.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Dallas
Case No. 25,815
Race Colored

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) The substitute father has residence elsewhere and it is not known whether he frequented the home or cohabited elsewhere. He admitted that he is the father of six children born between the years 1951 and June, 1966.

Give below or attach a brief statement of facts leading to termination or denial of aid. It was learned that the Mother had a new baby born June, 1966. The father was interviewed. He stated he was able to support the children and had plans to marry the mother now that his wife is dead.

Source of evidence used to terminate or deny aid. Statement of Mother and Father.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Dallas	Circle One:
Case No. 24,547	1 Application Denied
Race Colored	(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.)* The substitute father was not living in the home but it is not known whether he was frequenting the home or cohabiting elsewhere. He is the father of three of the children.

Give below or attach a brief statement of facts leading to termination or denial of aid. The mother was pregnant by the substitute father. It was explained to her that if she broke the relationship that her aid would not be terminated, and that she would have up to sixty days to give evidence that the relationship was broken. We explained that we would be glad to assist her in getting the evidence.

Source of evidence used to terminate or deny aid. The mother did not return to the office until 12-66 at which time an application was accepted. She was re-certified as the relationship had been broken.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County: Dallas
Case No.: 27,751
Race: Colored

Circle One:
1 Application Denied
2 Case Terminated
(3) Signed affidavit

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*)

• • • • • • • •

Give below or attach a brief statement of facts leading to termination or denial of aid.

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Source of evidence used to terminate or deny aid.

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State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

	Circle One:
County: Dallas	1 Application Denied
Case No.: 23,670	2 Case Terminated
Race: Colored	(3) Signed affidavit

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*)

. . . . . .

Give below or attach a brief statement of facts leading to termination or denial of aid.

. . . . . .

Source of evidence used to terminate or deny aid.

. . . . . .

PLAINTIFFS' EXHIBIT 31.

Memorandum

April 3, 1967

To: Mrs. Mary Stapp
Legal Advisor

From: Margaret Jordan, Director
Bureau of Research and Statistics

Subject: *ADC Cases Closed Because of Substitute Parent Policy*

In accordance with your request, we are attaching data relating to *ADC Cases Closed Because of Substitute Par-*

ent Policy Classified by Race, July 1, 1964-January 31, 1967, for the following counties:

Baldwin
Chambers
Clarke
Dallas
Greene
Montgomery
Russell

cc: Mr. King
Miss Austin
Miss Beale
Miss Bryan

State of Alabama

Department of Pensions and Security
Montgomery

ADC Cases Closed Because of Substitute Parent Policy Classified by Race*

July 1, 1964-January 31, 1967

County	Total	Race		
		White	Negro	Other
Total	498	13	485	0
Baldwin	47	4	43	0
Chambers	75	0	75	0
Clarke	42	0	42	0
Dallas	184	2	182	0
Greene	91	0	91	0
Montgomery	32	7	25	0
Russell	27	0	27	0

Prepared by: Bureau of Research and Statistics

April 3, 1967

* See Manual for Administration of Public Assistance, Chapter II, Page 24, Section V, A. (1), (2), and (3).

PLAINTIFFS' EXHIBIT 32.

Chambers County

Department of Pensions and Security
LaFayette, Alabama

March 15th, 1967

Mr. Ruben K. King, Commissioner
State Department of Pensions and Security
64 North Union Street,

Attention: Miss Mildred Beale, Assistant Director

Bureau of Field Service,
Montgomery 4, Alabama.

Re: Schedule Forms
Substitute Parent Policy
July 1966

Dear Mr. King:

We are enclosing three copies of the forms which we received concerning the Substitute Parent Policy.

Attached to each one is a very short statement concerning the case. We are also including a copy of PSD-152 with the notation, "no affidavit of mother secured during July, 1966."

Sincerely,

/s/ NAN C. MURPHY,
(MRS.) NAN C. MURPHY,
Director.

NCM/sh

cc: Field Representative

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Chambers — Circle One:
Case No. 7277 — (1) Application Denied
Race Negro — 2 Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) Chpt. II, p. 24—Sec. V (3). He does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere.

* * * * * * *

Give below or attach a brief statement of facts leading to termination or denial of aid. Youngest child born 6/23/66. Alleged father inmate at prison road camp at Auburn. Applicant visited him frequently, heard from him regularly. This is the second child born to them, both pregnancies occurring while he was at Auburn (Ref. Miss Mildred Beale's letter dated 7/29/65 re:)

* * * * * * *

Source of evidence used to terminate or deny aid. Natural mother.

BLEDSOE, Annie Pearl 7277

This client was first known to the agency under the ADC program in October, 1949, at which time she was the mother of five children. It was reported to the agency in July, 1964 that she was pregnant, at which time the client also stated she was seven months pregnant. The alleged

father named by the client, was an inmate at Prison Road Camp. She visited him frequently and kept in touch with him. The case was terminated as result of the new regulations regarding substitute father. The client reapplied in July, 1966, at which time she stated she had another child, also by this same alleged father who was still in prison camp. There was no broken relationship as she stated she continued to visit him there, and both pregnancies occurred while the alleged father was in this camp. He did not frequent the home but did cohabit with this mother elsewhere, therefore, the application was denied. The mother named the alleged father to this agency.

PLAINTIFFS' EXHIBIT 33.

Russell County

Department of Pensions and Security
Phenix City, Alabama

March 14, 1967

Mr. Ruben King, Commissioner
State Department of Pensions and Security
64 North Union Street
Montgomery, Alabama

Attn: Mrs. Edwin N. Jordan, Director
Bureau of Research and Statistics

Re: Your Letter 3-10-67
Substitute Parent Policy
Case No. 14156, Negro

Dear Mr. King:

Attached is schedule form which has been completed by us. This is the only case we had in July, 1966, perti-

nent to the Parent Substitute Policy. Please note date of termination interview is 6-30-66 and termination was signed by Director 7-7-66.

With reference to Miss Peale's call of 3-10-67, this agency had no cases during July, 1966, which involved the use of notarized statements as a means of evidence supporting discontinued relationships. This refers to Manual, Part I, Chapter II-25, 2nd paragraph.

If you have any questions, kindly advise.

Sincerely,

MYRTLE S. PREER

MSP:med

Enclosure

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Russell
Case No. 14156
Race Negro

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) Manual, Chapter II, pg. 24, last paragraph (2) under A. "Though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother."

Give below or attach a brief statement of facts leading to termination or denial of aid. Client was not at home on 6-28-66 visit. Children at home were interviewed, then reference given by children was seen same day.

Reference said client was pregnant and added she felt the man who was coming and going was making financial contribution to the family but she could not be sure. She did not give the name of the man to whom she had reference.

Client was seen in office 6-30-66. She was obviously pregnant, readily admitted it, gave the name of the father of her unborn child, admitted on-going relationship with father of unborn child and stated he was making regular financial contributions to family. Client said she did not know home address of father of her unborn child.

Client was given explanation of policy closing her case. She obviously understood and accepted action of agency.

Source of evidence used to terminate or deny aid. Primary source was client, who was obviously pregnant, said she was expecting baby in September, gave name of natural father of unborn child and told of his regular contributions.

Secondary source was next door neighbor to client, who verified frequent visits of natural father of unborn child.

PLAINTIFFS' EXHIBIT 34

Clarke County

Department of Pensions and Security
Grove Hill, Alabama 36451

March 14, 1967

Mr. Ruben K. King, Commissioner
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery, Alabama 36104

Attention: Mrs. Margaret Jordan, Director
Bureau of Research and Statistics

Dear Mr. King:

I am enclosing a schedule on the one ADC case closed in Clarke County in July 1966 because of the substitute-parent policy. We had no denials because of this policy. There was no affidavit made concerning a child under one year of age in July 1966.

Yours sincerely,

/s/ BLANCHE SAUNDERS,
MRS. HERBERT SAUNDERS,
Director.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Clarke
Case No. 8724
Race Negro

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) Father Substitute living in the home.

Give below or attach a brief statement of facts leading to termination or denial of aid. Report was received by agency that man was living in the home. Mother admitted he frequented home, but stated he was a friend of her 16-year old son and that her 17-year old daughter washed for him. This was refuted by her mother and references. One reference stated mother was relieved of duties in a civic club because of her behavior. According to reference the main purpose of the club was to improve standards of group to become more acceptable in the community.

Source of evidence used to terminate or deny aid. References—Neighbors. Letter received from mother enclosed in self-addressed envelope to agency bearing case number of man's father. Letter had been written to man about his father (OAP recipient) and was never answered. Agency practice to put case number on envelope when enclosing self-addressed envelope.

PLAINTIFFS' EXHIBIT 35.

Montgomery County

Department of Pensions and Security
Court House
P. O. Box 2005
Montgomery, Alabama 36103

Telephone No. 269-1411

March 16, 1967

Mr. Ruben K. King, Commissioner
State Department of Pensions and Security
Administrative Building
64 North Union Street
Montgomery, Alabama 36104

Attention: Mrs. Edwin N. Jordan, Director
Bureau of Research and Statistics

Dear Mr. King:

We are enclosing the schedule forms for one Aid to Dependent Children case closed and one Aid to Dependent Children application denied aid during July 1966, because of the Substitute Parent Policy.

Sincerely,

/s/ ADA KATE POSEY,
ADA KATE POSEY, AGSW,
Director.

AKP/at

CC—Miss Mildred Beale, Director
Bureau of Field Service

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Montgomery
Case No. 22532
Race Negro

Circle One:
(1) Application Denied
2 Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) (3) Pregnancy or a baby six months of age or under is prima facie evidence of a substitute father.

Give below or attach a brief statement of facts leading to termination or denial of aid. Client admitted pregnancy and the fact that she still maintains contact with the alleged father.

Source of evidence used to terminate or deny aid. Applicant's statement.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Montgomery
Case No. 49572
Race Negro

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) Pregnancy or a baby six months of age or under is prima facie evidence of a substitute father.

Give below or attach a brief statement of facts leading to termination or denial of aid. Client terminated her employment 5/66 and was contacted 7/66 regarding continued unemployment when suitable arrangement existed for child care. When interview was arranged regarding employment policy it was learned that client was pregnant.

Source of evidence used to terminate or deny aid. Obvious pregnancy and admission of same by client. Verification was made by Montgomery Health Department.

PLAINTIFFS' EXHIBIT 36.

Revision No. 7

Effective January 1, 1964

Alabama

Suitable Home Provision

The purposes of the suitable home provision in ADC are: (1) to redefine and re-emphasize the importance of suitable family life; (2) to underline agency responsibility in relation to the maintenance of suitable family homes of children who receive ADC; (3) to reinforce the opportunity of the economically deprived child to develop to the extent of his ability.

In thinking of a suitable home, many people have in mind the *ideal* home with all of its many desirable attributes, among which are *two* normal, healthy parents who: (1) are loving and respectful of each other; (2) are consistently and warmly affectionate toward their children; (3) respect individual differences among their children, seeing the worth in each child and encouraging him to develop to his fullest capacity; (4) provide their children with supervision, guidance and discipline; (5) encourage their children to take advantage of educational opportunities; (6) see that their children are well-nourished, clean, and clothed properly; (7) balance their own and their children's lives with wholesome recreational activities as well as work; and (8) preserve and promote spiritual values.

For a home to have attributes such as the above, there must be financial security at least adequate to relieve the parents of constant anxiety over how the household and medical bills will be paid.

Comparatively few homes have all of the above and other similar desirable attributes. In Alabama, ADC homes are obviously deficient from the beginning in two essential components of the ideal home: (1) one of the parents is dead, absent, or disabled; and (2) there is an acute economic need.

Regardless of these two important deficiencies, the ADC group is a family and it is almost universally conceded that a child's best interest is served if he can safely grow up with his own family. It is also conceded that parents have definite rights as well as definite responsibilities in relation to their children; for example, the right to legal and physical custody of their children and the right to decide upon their religion. The occasions, therefore, are relatively rare when removing a child from his family for even a temporary period should be even remotely considered. A home may not be ideal, but yet be "suitable" in so far as it is the best place for a particular child.

In view of the above, it is obvious that, except in cases of gross deviation, the caseworker's responsibility is to help strengthen homes and preserve family ties.

This section is to be used in conjunction with the plan of services for children in Chapter Five of this manual. It is also to be used in conjunction with provisions in *Manual for Administration of Child Welfare Services* which provide protection for all children. (See Chapters I and VIII of the child welfare manual.)

Suitable Family Home Defined—A suitable family home provides a child love, care, and protection and conforms in general to acceptable standards of health and morals. Such a home provides a child an opportunity to develop into a normal adult and it meets at least the child's minimum needs.

Evaluation of Suitability of the Home—The county department is responsible for: (1) evaluating (i. e., appraising the circumstances in the home and their physical and emotional impact on children) the suitability of the home at the time of application or review, or at any other time that a question arises about suitability; (2) bringing to bear all of its understanding of human problems and working with the parent or other grantee relative in improving unsuitable home conditions and in maintaining court action to remove children from the home in extreme more responsible care of children; and (3) initiating court action to remove children from the home in extreme situations.

In order to evaluate home conditions, a worker must get to know:

(1) Parents and children so that the evaluation and the judgment reached are made with an understanding of family relationships;

(2) The shortcoming in the parental care most hazardous to children;

(3) The possibilities of change; and

(4) The consequences of separating parents and children.

Some of the questions which workers must ask themselves as they evaluate homes are:

(1) Is there evidence of parental concern and love for the children and parental efforts to provide care for the children? These are primary factors in assessing the total effect of the parent's functioning and home conditions upon the particular child.

[Inc. 2-14-64 by C. O.]

The most pervasive areas for evaluation are parental love and physical care. These areas are evaluated by observation and interviewing in relation to evidence of the parent's interest in, and affection for, the child and the child's response to his parent. Physical care is manifested in general by the physical condition of the child and the parent's efforts within his means to provide or secure for the child the necessary food, shelter, clothing and medical care. The efforts of parents to keep children regularly attending school and to provide within the home an atmosphere of acceptance and warmth are major areas of evaluation.

(2) Is neglect current and continuous and what is the nature of its effect on the child? Does it result from lack of resources and ignorance or from lack of concern or willful actions on the part of the parent?

When the failure is due to the fact that the parent never had a chance to learn or is discouraged or depressed, the chances are that he can be helped. Such a parent is usually responsive to encouragement and guidance and is able to make substantial gains with the help of a caseworker whose concern for the parent proves that he is worthwhile and that the welfare of his children is important to him. Intensified agency and community help is indicated in these situations.

(3) Is impaired parental functioning the result of character disorders, mental illness, or seriously limited mental capacity? If so, there is less possibility of improvement and the hazards created for the children may warrant removal from the home.

Criteria for Evaluating Home Conditions Which May Be Hazardous to Children

1. *Physical Care and Protection Within the Means of a Parent(s)*—Common in neglect situations is the inability of parents to provide *within their means* the following: (a) a physical setting that is reasonably safe, clean, and comfortable; (b) food that is nourishing and well prepared; (c) comfortable and reasonably becoming clothes kept clean and mended; (d) established orderly, daily routines, such as regular meals; (e) body cleanliness of children.

Insufficient funds and adverse social conditions may make it impossible for parents to provide the kind of care they desire for their children. The desire to provide the best possible care for their children distinguishes some parents from others who deny that problems exist and protest that there is nothing more that they can do.

2. *Supervision, Guidance, and Discipline*—Parents are expected to supervise the daily activities of their children, guide them as they learn the rules of society, and discipline impulsive and uncontrolled behavior. When parents fail in this respect, ignorance and lack of opportunity are frequently causative factors. In this group are often mothers who work at least part-time out of the home and make no safe or satisfactory plan for the care of children in their absence. Young children are left alone or with an older child who is overburdened and ineffective in supervision.

[Inc. 2-14-64 by C. O.]

Children whose parents fail to provide proper supervision, guidance, and discipline sometimes react as follows: (a) steal, fight, and break windows; (b) become

tense and anxious; (c) have temper tantrums; (d) become aloof and are on-lookers instead of participants in school and social activities. The disturbances these children create frequently bring them to the attention of the public agency through reports from nurses, teachers, and clinic personnel.

Early detection is extremely important. The sooner parents and children are helped to examine these patterns of behaviour, the greater the possibility of reversing the trend and sparing the child increasing difficulty as he grows older.

The agency's intervention needs to be based upon conviction that change is essential for the safety and well-being of the children. The agency's authority to insist on more responsible care often induces parents to examine their own positions. They may protest vigorously, but they are often actually relieved to find strength in an outside factor that requires something of them.

3. *Exploitation of Children*—This usually occurs in family groups where there are many problems and serious social pathology. Examples of exploitation are: (a) openly teaching or furtively encouraging children to steal, or to participate in other anti-social behavior to satisfy the parent's own desires; (b) sending children out to beg or using them as go-betweens in narcotics traffic; (c) encouraging prostitution or otherwise misusing the girls or allowing others to do so. Frequently the hazard in such situations calls for prompt referral to court to safeguard the child from further damage. A thoughtful study of the family situation is the only sound basis for planning.

In some cases, efforts to help such parents find satisfaction in more socially acceptable behavior fail and permanent separation through termination of parental

rights is the only way to protect the children. However, before such final decisions are considered, it is important to use any available psychiatric and psychological resources for a thorough diagnostic evaluation and to give parents every opportunity to get help with the personal problems that interfere with normal parent-child relationships.

The more frequent and less pathological forms of exploitation also adversely affect children. Examples are: (a) overworking children; (b) expecting children to take unreasonable responsibility for household tasks and care of younger children; (c) keeping children out of school or denying them time for normal school activity. In such cases, the agency has a responsibility to help families plan household management and child care so as to protect the rights of the children to sound educational and recreational experience.

[Inc. 2-14-64 By C. O.]

4. *Protection from Degrading Conditions*—It is important to recognize the difficult task found by parents who must live in slum areas where children are exposed to many dangers. Overcrowded households force children into the streets and sometimes into places where they may become victims of juvenile delinquency or adult degradation.

Alcoholism, promiscuity, and criminal activity on the part of parents endanger children. Excessive drinking, gambling in the home, or immoral and bizarre sex practices subject children to serious emotional problems and distorted development.

These severe personal and family problems need the most skillful service the agency can provide.

5. *Abuse and Physical Cruelty*—In the total picture of neglect, the percentage of abused children is small. Parents who are physically cruel to children are usually suffering from pathological conditions.

Physical punishment is a common form of child discipline. Brutal treatment is at times associated with rigid, unreasonable behavior standards. Both physical and psychological damage to the child can be severe. Physical cruelty sometimes is associated with alcoholism or drug addiction, with a resulting loss of the parent's good judgment.

Current experience indicates that (a) adults who inflict injuries on children are likely to repeat the attack; (b) the adult is not reacting to specific behavior but to his own feelings; (c) police warning, court action and probationary status have been ineffective as deterrents. In these circumstances, young children are dependent for protection upon social, medical, and legal agencies.

Occasionally parents are relieved to express their true feelings about the child and to participate in plans for his care outside the home. Frequently an expression of severe hostility is directed to one child while the other children are given adequate care.

[Inc. 2-14-64 By C. O.]

Ala. Manual, Part I 11-40

Conditions of Unsuitability Which Call for Specific Action

The agency has both authority and responsibility to define for parents what actions or failures to act on their part would bring the children under juvenile court jurisdiction. For instance, children of school age must go to school and parents are responsible for their attendance. Children must not be left without adult care and

supervision that protects both them and the community. Children cannot be left in situations that seriously endanger their physical health and their mental and moral development.

Given below are conditions of unsuitability which calls for specific action.

1. Improper relations with a child, prostitution of a child, injury of a child by cruel beatings, other offenses against a child of an equally serious nature, or where the child needs the immediate protection of the court are conditions calling for the filing of an immediate petition for the protection of the child in accordance with established child welfare practices.

2. Other serious conditions which must be considered in evaluating suitability of the home are:

a. *Unusual Neglect of a Child*—This may be willful, as when the parent or other grantee relative is not interested in the child's welfare, drinks excessively, or uses his income and grant for purposes other than necessities. Unusual neglect may also occur when the parent or other grantee relative is unable to give proper care, as when he is too feeble-minded or physically disabled to provide for the care of the child. (A question of unsuitability within the meaning of this provision will not arise if malnutrition, insufficient clothing, etc., result solely from lack of income.)

Some evidences of willful neglect are obvious malnutrition, etc., repeatedly leaving the child alone in the home, on the streets, or without proper supervision or control. Repeated arrests of the parent or other grantee relative for disorderly conduct, alcoholism, or other serious vio-

lations of the law often result in the serious neglect of the child and raise a question as to suitability of the home.

b. *Sexual Promiscuity*—Evidences of this are:

(1) The mother or other female grantee relative living in the home has promiscuous relations inside or outside the home, or has other undesirable patterns of sexual behavior which affect adversely the moral environment of the child.

(2) The father or other adult person livin the home has promiscuous relations within the home or other undesirable patterns of sexual behavior which effect adversely the moral environment of the child.

The lack of a statutory or common-law marriage will not in itself raise a question as to suitability of the home. A suitable environment for the child may exist by virtue of a stable union, even though such a union may lack legality.

When conditions of unsuitability exist, tell the parent or other grantee relative what they are; talk to him about what he can do to correct the unsuitable conditions; and explain what the agency can do

[Inc. 2-14-64 by C. O.]

to help in the matter. Tell him that the following action will be taken:

1. Unless the welfare of the child calls for an immediate petition to the court, the parent or other

grantee relative will be expected to take steps to correct the situation in the home. The counsellor will help the parent or other grantee relative correct the situation in areas where he can. At the end of three months, a re-evaluation will be made and next steps decided upon. If there is some improvement, or it appears that additional time would be helpful, consider that the parent or other grantee relative to trying to make the home suitable and continue to work with the parent toward further improvement and set new dates for evaluation.

2. If the condition has not improved within the period agreed upon and it appears that other plans could and should be made for the child, discuss with the parent or other grantee relative possible alternate plans, such as ADC with another relative in a suitable home, foster home care, or institutional care. A decision to make plans for the child outside his home or to bring the situation to the attention of the court will be made, however, *only* when: (a) careful study and evaluation establish that the negative factors so far outweigh the positive ones as to jeopardize seriously the welfare and interests of the child; *and* (b) it appears that further effort to enable the parent to correct unsuitable conditions will be unproductive as long as the child remains in the home; *and* (c) it appears that the child could be benefited.

If the parent or other grantee relative will not enter into an agreement for the county department to carry out a suggested plan for the child's care, and it appears that the child would benefit by reporting the situation to the appropriate court, tell the parent or other grantee relative that this action may be necessary. Continue ADC in the child's home

until other plans are made for his care. (See procedures below in relation to court action.)

If it does not appear that the child would benefit by court action or if the child is 16 or older, continue ADC and continue to work with the parent or other grantee relative on improving the home situation. (Juvenile court action is not initiated for children over 16 because the court does not have jurisdiction over these children.)

Procedures To Be Followed When Court Action Is Initiated

Sometimes it is necessary for the county department to file a petition for the immediate removal of a child from his home in an extreme situation. Unless this is true, when a petition is under consideration, first discuss with the judge the most desirable plan for the child's protection. The best plan may be to leave him in his own home under supervision of the county department or to remove him from his home and place him in the home with other relatives, in a foster home, or in an institution.

December 1, 1962

[Inc. 1-11-63 by R. O.]

If the judge and county department agree that a petition should be filed for removal of a child from his home, the State Department must share in this decision. Any decision made by a State staff member will be based on factual data presented by the county department. The data must show what condition of unsuitability exists, what ill effect it has had or is expected to have on the child, what efforts have been made to help the parent im-

prove the situation, the alternate plan which has been made for the child's care and how he is expected to benefit by it.

Given below are procedures to follow in initiating court action for removal of a child from his home and in securing advice from the State Department.

Before petitioning the court to remove a child, ask the field representative and/or the child welfare consultant to read the case in question if they are in the county office or are expected there soon. Otherwise, mail the case record to the Bureau of Child Welfare and request a review. In this instance, a joint decision regarding court action will be made by the Bureaus of Child Welfare, Field Service, and Public Assistance. When indicated, the legal advisor will be consulted.

If the State Department agrees that a petition should be filed, use civil procedures provided under Title 13, Section 361, Code of Alabama, 1940, as amended.

If the court adjudges the child should be removed from the home and placed elsewhere, discontinue aid for *this* child in the home from which he was removed. If the child is placed in a suitable home with another relative of the required relationship for ADC, a new ADC case can be opened and payment made in the usual way.

If the court does not remove the child from the parent's or other grantee relative's home and if he is otherwise eligible, continue the ADC payment.

NOTE: Sometimes a parent's neglect of a child is such that it appears the parent should be prosecuted. When such action is indicated, mail the case record to the Bureau of Child Welfare for review by ap-

propriate State staff, which will always include the legal advisor. If the decision is to prosecute the parent and it appears that the child's best interest can be served by placing the parent on probation, the county department will be asked to discuss this with the judge.

Aid to Dependent Children—Foster Family Care

Section 408 of Title IV of the Federal Social Security Act, as amended by Public Law 87-31, includes within the definition of a dependent child one who receives boarding home care under certain conditions outlined later.

[Inc. 1-11-63 by P. O.]

Ala. Manual, Part I II-43

Title 49, Section 17 (14), Code of Alabama 1940, as amended, states that a dependent child shall be defined in accordance with the Federal Social Security Act. (Title 49, Sections 85-90, Code of Alabama 1940, provides the legal authority for licensing boarding homes.)

When the court adjudges a child should be removed from his own home because of unsuitable home conditions, board can be paid for foster family care and matched as ADC, provided *all* of the following conditions are met:

1. The child meets all eligibility requirements for ADC with the exception of the requirement that he must be living in the home of specified relatives.

2. The child received ADC in or for the month in which the petition to effect his removal from the home was filed. The fact that ADC is terminated in his own home if he is an only child or if other chil-

dren were also removed does not affect his eligibility for ADC-FFC. If petitions are filed by other agencies or individuals charging parental failure, the date of such proceedings may be regarded as the month in which legal action for the child's removal was initiated.

3. A petition for removal of the child has been filed in a court of competent jurisdiction under the general laws of the State and it has been judicially determined that the child is neglected and/or in hazardous circumstances and that his continued presence in the home will be detrimental to his well-being.

4. The court has awarded legal custody of the child to the department of pensions and security with responsibility to make plans for the child's care. (This is always a written order.)

Although legal custody is vested in the agency, the agency will respect parental rights and responsibilities, including visiting, decisions that involve a child's future, and the parent's duty to support the child to the extent of his ability. (When the court severs parental rights and *permanent* plans away from the child's home must be made, no ADC-FFC payments can be made.)

5. The foster family home in which the child is placed is licensed by the department of pensions and security in accordance with policies in *Manual for Administration of Child Welfare Services.* (See pamphlet, "Minimum Standards for Boarding Foster Homes," 1960, prescribed by State Board of Pensions and Security and "Guide for Making and Recording Foster Home Study," FH-1, in the child welfare manual.)

6. Purposeful visits are made to give continuing supervision of the child and to work with foster parents in behalf of the child. A general standard of monthly visits will be observed. More frequent visits will be necessary in some cases, while less frequent visits

[Inc. 1-11-63 by R. O.]

may be indicated in others. For example, less frequent visits will be required in an instance in which a child has adjusted quickly and satisfactorily to the foster home and family.

Services to children and foster parents in ADC-FFC cases are specifically directed toward:

a. *Helping children* by: assisting in the maintenance of their ties and relationships with their parents and other family members; assisting them to understand actions that resulted in separation from their parents and helping with attendant emotional reactions and problems; assisting them to understand the reasons for foster family care and to have positive experiences in foster family homes; and developing long-range plans for care suited to the individual child's needs and that afford him the maximum satisfaction, opportunity, and sense of belonging. Service resources within the agency and the community will be used to the fullest extent. (See "Community Resources," Chapter XIV of the child welfare manual, and "Services in Addition to Establishing Eligibility," Section VI of Chapter Five in Alabama Manual, Part I.)

b. *Helping foster parents*: to understand the responsibilities, objectives, and requirements of

the agency in relation to the children in their care; to provide the children the nurture, care, and training suited to their individual needs; to encourage the maintenance of parent-child relationships; to participate appropriately in the treatment of children with special problems; and to facilitate termination of placement when no longer needed or desirable.

7. During the placement period, the agency gives continuing casework and other appropriate services designed to enable parents and/or relatives to improve home conditions. In addition, the agency encourages the parents to maintain continuing relationships and ties with their children during placement and to assist their children to use the placement experience constructively. (Although the county department does not initiate court proceedings until it appears that further efforts to help the parents will be unproductive, court action itself sometimes motivates a parent to change.)

The primary casework objective in these cases is the improvement in family functioning and the child's return to his home as quickly as possible. When the county department and field representative and/or child welfare consultant agree that parents and/or relatives are maintaining a suitable home as defined in

the previous section, and the probability is that they will continue to do so, the subject of restoring legal custody to the parents or other grantee relative should be discussed with the court.

8. At least once each six months there is reassessment and reevaluation that: (a) no other plan of care is feasible or suitable for the child and that foster family care continues to be necessary; and (b) the child continues to be eligible for ADC except for living in the home of a relative of specified relationship.

When it is determined at any time during the year that the child cannot return to the home from which he was removed or that no other ADC plan can be made for him, the county department will terminate the case for ADC-FFC and refer it to child welfare for further planning.

Usually, ADC-FFC will not be continued beyond one year. When, however, a child has been in a foster family home for as long as a year and there is a good probability that he can return to his own home, the county department may wish to request an extension of ADC-FFC. This request must be sent to the Bureau of Child Welfare with full explanation of the request. A joint decision on the request will be made by the Bureaus of Child Welfare, Field Service, and Public Assistance.

When possible, child welfare workers should be assigned cases for which ADC-FFC is paid. If this cannot be done, the cases should be assigned to other workers experienced in working with children and families.

Aid on Behalf of an Unborn Child

Aid may be given for an unborn child when the mother's pregnancy has been determined by a legally licensed physician and other conditions of eligibility are met. File a copy of the physician's diagnosis in the case record or interview the physician and record full information regarding his diagnosis.

The granting of ADC before the birth of a child is in recognition of the direct effect on the child of the mother's need during pregnancy.

School Attendance

School attendance is not a requirement for the receipt of aid; however, families should be urged to have their children take advantage of available educational opportunities.

PLAINTIFFS' EXHIBIT 37.

Greene County

Department of Pensions and Security
Eutaw, Alabama

March 14, 1967

Mrs. Edwin N. Jordan, Director
Bureau of Research and Statistics
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery, Alabama 36104

Dear Mrs. Jordan:

As requested in your letter of 3-10-67 we are enclosing schedule forms for the two Aid to Dependent Children cases closed during *July, 1966* because of the substitute parent policy. We did not have any applications denied aid during July, 1966 because of the substitute parent policy. We had no affidavits submitted for re-application in July, 1966.

We terminated assistance on two other Aid to Dependent Children cases in July, 1966 for the following reasons: 1. ADC #5460, was closed because her only child was

18 years old and was going to Detroit, Michigan to live with an aunt. 2. ADC #7581, reported to worker she was moving to Buffalo, N. Y. to live and her son was going with her. Client asked that her assistance be terminated.

Sincerely yours,

/s/ EMORY S. STERN,
MRS. EMORY S. STERN,
Case Worker II.

Approved:

/s/ LUCY K. LOCKLIN,
MRS. LUCY K. LOCKLIN,
Director.

ES:emh

cc: Field Representative.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County: Greene	Circle One:
Case No.: 8372	1 Application Denied
Race: Colored	(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) This case was closed under the section of the Substitute Parent Policy where there was a substitute father in and out of the home cohabiting with the ADC recipient.

Give below or attach a brief statement of facts leading to termination or denial of aid. The ADC recipient told the worker she was pregnant and she was still cohabiting with the father of her unborn child.

Source of evidence used to terminate or deny aid. Pregnancy of the ADC recipient as reported verbally to the worker by the ADC recipient. The ADC recipient's statement that she was still cohabiting with the father of her unborn child. The Greene County Health Department verified that the ADC recipient gave birth to a baby girl on July 17, 1966.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County	Greene	Circle One:
Case No.	7099	1 Application Denied
Race	Colored	(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.)* An able-bodied man, married or single is considered a substitute father of all the children of the recipient mother living in her home, whether they are his or not, if: (3) He does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

Give below or attach a brief statement of facts leading to termination or denial of aid. 7-25-66. ADC recipient wrote worker she has another baby and she knew she should report any changes in her situation to the agency (letter in case file). The substitute parent policy had been explained to her when her review was done on 2-8-66. Client wrote that she did not know she was pregnant when she talked with the worker on 2-8-66.

Source of evidence used to terminate or deny aid. Pregnancy of the recipient mother, as reported to the worker by the recipient mother. The Greene County Health Department verified that client gave birth to a baby girl, on May 12, 1966.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County	Chambers	Circle One:
Case No.	11,683	1 Application Denied
Race	Negro	(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.)* He did not frequent the home, but cohabits with the natural mother away from home.

Give below or attach a brief statement of facts leading to termination or denial of aid. The home was visited and the aunt with whom the recipient lived, told the

Counsellor of the pregnancy and also named the father of the unborn child.

Source of evidence used to terminate or deny aid. Aunt. Pregnancy of an unmarried woman which is prima evidence of a substitute father.

Holloway, Morilene # 11,683

This unmarried mother first began receiving assistance for her child in June, 1964. At the time of application, she was living with two aunts, both of whom were ADC recipients, one of them receiving for an illegitimate child. In June, 1966, the home was visited. It was learned from the aunt that the client was pregnant, and the alleged father was named. He lived very near her home, and the relationship was not broken. He did not frequent the home, but did cohabit with the mother elsewhere. The case was terminated as pregnancy of an unmarried woman is prima facie evidence of a substitute father.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Chambers
Case No. 11,817
Race Negro

Circle One:
(1) Application Denied
2 Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) Applicant pregnant. Pregnancy or a baby six months or under is prima facie

evidence of a substitute father who cohabits with natural mother elsewhere, though not frequenting.

Give below or attach a brief statement of facts leading to termination or denial of aid. Statement of applicant that she was seven months pregnant.

Source of evidence used to terminate or deny aid. Statement of applicant that is pregnant and conversation with Probate Judge regarding alleged father.

PERRY, Maxine #11,817

The client, age 20, contacted the agency regarding ADC on July 11, 1966, at which time she stated she was seven months pregnant. At the time of application she was living with her cousin, and was undergoing treatment for epilepsy. The alleged father, named by the client, was continuing to live in the community near her. Although he did not frequent the home, he did cohabit with the client elsewhere. In review of information given by the client, the application was denied as a child six months or less is evidence of a substitute father.

"No affidavit of mother taken for July, 1966."

State of Alabama

PSD-152

February, 1966

Department of Pensions and Security

Affidavit of Mother

State of Alabama
Chambers County

Before me, ..., a Notary Public in and for said county and state, personally appeared

..... who being by me first duly sworn, deposes and says:

1. That she is the mother of ..... an illegitimate child of the age of one year or under;

2. That ..... is the father of said child and that his last known address is .....;

3. That she does not know who is the father of said child for the following reasons .....;

4. That the facts above stated by affiant are true and correct.

.....

Affiant.

Sworn to and subscribed before me this ..... day of ....., 19....

.....

Notary Public.

"No affidavit taken for July, 1966"

State of Alabama

PSD-152

February, 1966

Department of Pensions and Security

Affidavit of Mother

State of Alabama
Chambers County

Before me, ..., a Notary Public in and for said county and state, personally appeared ....., who being by me first duly sworn, deposes and says:

1. That she is the mother of ....., an illegitimate child of the age of one year or under;

2. That ..... is the father of said child and that his last known address is .....
.....;

3. That she does not know who is the father of said child for the following reasons:
.....
.....;

4. That the facts above stated by affiant are true and correct.

.....
Affiant.

Sworn to and subscribed before me this .... day of ....., 19....

.....
Notary Public.

PLAINTIFFS' EXHIBIT 38.

Greene County

Department of Pensions and Security
Eutaw, Alabama

March 14, 1967

Mrs. Edwin N. Jordan, Director
Bureau of Research and Statistics
State Department of Pensions and Security
Administrative Building
64 N. Union Street
Montgomery, Alabama 36104

Dear Mrs. Jordan:

As requested in your letter of 3-10-67 we are enclosing schedule forms for the two Aid to Dependent Children cases closed during July, 1966 because of the substitute parent policy. We did not have any applications denied

aid during July, 1966 because of the substitute parent policy. We had no affidavits submitted for re-application in July, 1966.

We terminated assistance on two other Aid to Dependent Children cases in July, 1966 for the following reasons: 1. ADC # 5460, was closed because her only child was 18 years old and was going to Detroit, Michigan to live with an aunt. 2. ADC # 7581, reported to worker she was moving to Buffalo, N. Y. to live and her son was going with her. Client asked that her assistance be terminated.

Sincerely yours,
EMORY S. STERN,
MRS. EMORY S. STERN,
Case Worker II.

Approved:

Lucy K. Locklin,
Mrs. Lucy K. Locklin,
Director.

ES:emh

CC. Field Representative.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Greene
Case No. 7099
Race Colored

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter

II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) An able-bodied man, married or single is considered a substitute father of all the children of the recipient mother living in her home, whether they are his or not, if: (3) He does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

Give below or attach a brief statement of facts leading to termination or denial of aid. 7-25-66. ADC recipient wrote worker she has another baby and she knew she should report any changes in her situation to the agency. (letter in case file). The substitute parent policy had been explained to her when her review was done on 2-8-66. Client wrote that she did not know she was pregnant when she talked with the worker on 2-8-66.

Source of evidence used to terminate or deny aid. Pregnancy of the recipient mother as reported to the worker by the recipient mother. The Greene County Health Department verified that client gave birth to a baby girl, on May 12, 1966.

State of Alabama

Department of Pensions and Security
Montgomery

Aid to Dependent Children Case Closed or Applicant Denied Aid During July 1966 Because of Substitute Parent Policy

County Greene
Case No. 7099
Race Colored

Circle One:
1 Application Denied
(2) Case Terminated

Indicate provisions of the Substitute Parent Policy which were used to terminate or deny aid. (See Chapter

II, Page 24, Section V, of Part I of the *Manual for Administration of Public Assistance.*) An able-bodied man, married or single is considered a substitute father of all the children of the recipient mother living in her home, whether they are his or not, if: (3) He does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

Give below or attach a brief statement of facts leading to termination or denial of aid. 7-11-66, ADC recipient told worker she was pregnant and expecting her baby soon. According to client, she was still going with Mr. X, the father of her unborn child.

Source of evidence used to terminate or deny aid. Pregnancy of the recipient mother, as reported verbally to the worker by the recipient mother. The Greene County Health Department verified that client gave birth to a baby girl, on July 17, 1966.

PLAINTIFFS' EXHIBIT 40.

Case Summary

Mrs. Sylvester Smith — age 34
Ernestine — age 13
Willie Lewis — age 11½
Willie James — age 10

1544 Curtain Street
Selma, Alabama

ADC Case No. 22,929

The Sylvester Smith family has been known to the Dallas County Department of Pensions and Security since 1956. On March 7, 1956, Mrs. Smith applied for ADC for

her three children: Ida Elizabeth Smith, born April 6, 1952; Ernestine Smith, born December 8, 1953; and Willie Lewis Smith, born September 29, 1955. Her husband, Mr. Judge Smith, and father of the three children (as shown on the children's birth certificates) died October 30, 1955. Mrs. Smith and the three children named above were certified for ADC in May 1956.

In May 1958, Mrs. Smith told us about her son, Willie James Smith, who was born on January 17, 1957. She named Mr. Lois Fuller as the father of Willie James; although, the birth certificate showed his father to be Mr. Judge Smith. Mrs. Smith was not married to Mr. Fuller. According to Mrs. Smith, Mr. Fuller acknowledged paternity of Willie James to her; although he never contributed regularly to his support. On one occasion he gave her $5.00; on another, some clothing. Mr. Fuller was at times reported to be in Selma; however, he was never interviewed by the agency. Efforts were made to locate him through relatives in 1963; however, the agency was unsuccessful in locating him. The needs of Willie James were included in the ADC budget in June 1963.

Mrs. Smith received ADC continuously for her three oldest children from May 1956 until June 1963. In June 1963, Willie James' needs were included in the budget and she continued to receive aid for her four children from June 1963 until April 1966. At this time (April 1966), her oldest daughter, Ida Elizabeth, unmarried, had given birth to a son in March 1966 and her needs were removed from the budget. Mrs. Smith continued to receive ADC for the three youngest children—Ernestine, Willie L., and Willie James—from April 1966 until October 1, 1966.

In October 1966, Mrs. Smith told the agency about her relationship with Mr. Willie Williams after the agency learned of it from a reference contact. The substitute father policy was explained to her. She said she had

been going with Mr. Williams for about six years and that since she was still young as long as she wanted a man she was going to have one. She further said she planned to continue her relationship with Mr. Williams.

Mrs. Smith's case was closed October 1966 because Mr. Willie Williams was considered, under agency policy, a substitute father and the children were no longer eligible to receive ADC.

/s/ MAYANICE WALTON,
MAYANICE WALTON,
ADC Consultant,
Bureau of Public Assistance.

PLAINTIFFS' EXHIBIT 41.

Memorandum

Filed
April 27, 1967
By R. C. Dobson, Clerk,
Deputy Clerk.

To: Mrs. Mary Lee Stapp
Legal Advisor

From: Margaret Jordan, Director
of Research and Statistics

Subject: *ADC Cases Closed Because of Substitute Parent Policy*

In accordance with your request we are attaching information with reference to *ADC Cases Closed Because of Substitute Parent Policy Classified by Race for Specified Counties July 1, 1964,—January 31, 1967,* for the following additional specified counties:

Barbour
Jackson
Jefferson
Madison

You will also note that information is given for these counties with reference to *Families Receiving ADC for June 1964, Classified by Race.*

cc: Mr. King
Miss Austin
Miss Beale
Miss Bryan

State of Alabama

Department of Pensions and Security
Montgomery

ADC Cases Closed Because of Substitute Parent Policy
Classified by Race for Specified Counties*
July 1, 1964-January 31, 1967

County	Total	Race	
		White	Negro
Total	673	78[1]	595[1]
Barbour	105	3	102
Jackson	21	12	9
Jefferson	396	26	370
Madison	151	37	114

* See Manual for Administration of Public Assistance, Chapter II, Page 24, Section V, A. (1), (2), and (3).

[1] Percentage distribution by race is as follows: White, 11.6%; Negro, 88.4%.

Prepared by: Bureau of Research and Statistics

April 10, 1967

State of Alabama

Department of Pensions and Security
Montgomery

Families Receiving ADC for June 1964, Classified by Race for Specified Counties

County	Total	Race		Not Reported
		White	Negro	
Total	4,227	1,070[1]	3,117[1]	40
Barbour	485	43	442	0
Jackson	330	275	45	10
Jefferson	2,691	479	2,194	18
Madison	721	273	436	12

[1] Percentage distribution by race is as follows: White, 25.6%; Negro, 74.4%.

Prepared by: Bureau of Research and Statistics

April 10, 1967

PLAINTIFFS' EXHIBIT 42

February, 1966

Aid to Dependent Children

Through the Alabama Department of Pensions and Security

WHERE can a person apply for aid to dependent children?

At the department of pensions and security in the county where he lives. The office is at the county seat. (Anyone who thinks a child is in need can go to the department in the interest of the child.)

WHO can get aid to dependent children?

Aid to dependent children can be given for a child who:

1. Is under 18 or, if 18 to 21, is in regular attendance in school, including elementary grades, high school, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

2. Has lived in Alabama for a year or more just before asking for aid, or was born in the State within the year, or is living with his mother or other close relative who lived in the State for one year just before his birth.

3. Is in need by agency rules and does not have parents who can support him.

Agency rules allow a child and his parents and brothers and sisters living with him:

(a) A homestead with net value (assessed value less legal debts) up through $2,500 and up through 160 acres in size.

(b) A reserve from resources of up through $1,000. This can be cash or money in savings, other real property or certain other assets. "Other real property" means property not a part of the homestead and any property in the homestead above 160 acres.

Agency rules require a child or family to try to get income from all real property, including the homestead.

Parents must work when they are physically and mentally able and can make plans for the care of the children. Older children must work when they are physically and mentally able and when jobs do not violate the child labor laws and

do not keep the children from going to school. The department of pensions and security cannot help any children if they or their parents refuse to accept jobs which they can do under these conditions.

4. Has not sold or given away any property to get aid or a higher amount of aid. The parent(s), if living with the child, must not have sold or given away any property to get aid for the child.

5. Is not receiving at the same time in his own right any other form of aid from the department of pensions and security.

6. Does not have care and support from one or both parents by reason of death, illness, or continued absence from the home. The department of pensions and security must notify law-enforcement officials promptly when aid is given for a child who appears to have been abandoned or deserted by a parent.

7. Is living in the home of a close relative.

HOW MUCH will the check be?

Checks are not at a set rate. The amount will depend upon three things:

1. How much a child(ren) needs under agency rules.

2. How much money the Department has.

3. How many people receive aid to dependent children.

The highest payment to a relative for the first eligible child is $35 a month and for each additional child, $23. No payment can be made to a relative for more than $127 a month, regardless of the need or number of eligible children.

Unless a check for a child would come to as much as $5 under agency rules, he will not get a check even if he meets the other requirements.

HOW LONG will a person get a check?

As long as the child is eligible. At least once each 6 months, and at any other time the situation changes, the relative must give the county department information needed to see if the child is still eligible.

The law requires the relative to tell the county department at any time there is a change in the child's or family's situation. The law also provides penalties if a person misrepresents facts to get a check for himself or for another person.

If a person is for any reason dissatisfied with the decision of the county department, what can be done about it?

1. If his application is not acted upon within one month or he is dissatisfied for any other reason, he may write the State Department of Pensions and Security in Montgomery, Alabama, or the county department of pensions and security about his complaint. He can ask for either a review of his case by the State Department or a hearing. (The State Department and the county department operate under the same rules.)

2. If he wants a hearing, he must file his request within 90 days following the action with which he is dissatisfied. He must give the date on which the cause of dissatisfaction occurred. The parent or other grantee relative, his duly appointed legal representative or other authorized person must sign the letter and give a correct mailing address. If the letter appealing his case is by a person other than a parent or grantee relative, a lawyer of his choice or a duly appointed legal representative, one of these persons

must confirm the desire to appeal by a written statement over his signature.

3. The State Department will answer the person's letter, giving information about hearings. Plans will be made for the hearing and a date and place convenient to the person will be arranged. A representative of the State Department will be in charge of the hearing.

4. If the person is satisfied before the hearing and wants to withdraw his request, he, a lawyer of his choice, or a duly appointed legal representative, should write the county or State Department that he wishes to do so and give the reason for withdrawing.

PLAINTIFFS' EXHIBIT 43.

Ala. Manual, Part I

May, 1966

Chapter One

Eligibility for Financial Aid

The county department of pensions and security is directly responsible for administering the public aid programs and for making the decisions in regard to each person seeking aid. All decisions must be in keeping with laws governing the programs and with rules made by the State Department of Pensions and Security. The staff must, therefore, be thoroughly familiar with all legal requirements and policies and regulations relating to eligibility.

Federal and State laws and policies are the basis for all regulations governing the various categories of aid. The Federal Social Security Act, as amended, contains the specific Federal legislative requirements for old age assistance (called "Old Age Pension" in this State), aid to

the blind, aid to dependent children, and aid to the permanently and totally disabled. The laws of Alabama contain both specific and general provisions governing the various categories of aid.

Summarized eligibility regulations are available for each category. The distribution of these statements is given later in this chapter.

Section I

Application Process

County departments of pensions and security receive applications from or for persons seeking public aid. An application must be taken for any person who wishes to apply. County departments must make every effort to help the applicant work out his problems through his own or agency resources or through referral to another agency or community service.

I. *Definitions*

A. *An applicant* is any person (1) who has advised the county department he wants to receive public aid for himself or for children in his care, or who has had an application made in his behalf by another person, as specified in the paragraph below, and (2) whose application has not been disposed of by appropriate county department action.

B. *An application* is any action a person, or his duly authorized representative, takes to tell the county department he wants to receive public aid or to find out if he is eligible for it. The grantee relative applies for ADC. A legal representative or a legal guardian applies for his ward. A parent, brother, or sister 21 years of age or older who lives with and assumes responsibility for a mentally handicapped minor between the ages of 16 and 21 applies for the minor (APFD 18-21; AB 16-21).

The application may be *new* (initial) or it may be a *reapplication.*

The application may be *oral* (by direct contact or telephone call) or it may be *written* (by letter or postcard).

If a person makes a request for aid for another without that person's knowledge, however, the county department must advise the person making the request that the department can take no action without the knowledge and consent of the person concerned or the person responsible for his care.

C. *An inquiry* is a request for information only. An inquiry differs from an application in that the person's intent is to obtain information rather than to receive financial aid.

D. *A referral* may be classed either as an application or as an inquiry. It is a request for information, service, or aid in behalf of an individual. It may be made by an agency, an institution, or another person. The agency considers a referral as an inquiry unless the person who makes the referral says he is acting for an applicant with the applicant's knowledge and consent, or the person is the legal representative, legal guardian, or person responsible for care of a mentally disabled minor in AB or APTD. Then it is considered as an application.

E. *The application process* includes all activities related to an application from the time the applicant, his duly authorized representative, or person responsible for him, tells the department he wants aid until the receipt of payment or other disposition of his application. An application continues in effect until terminated by the person or disposed of by action of the county department. At any point in the process, an applicant may decide not to

continue his application. He must be free to make his own decisions.

II. *Filing of Applications and Statistical Reporting.*

Count as an application any request for aid made directly, or by a duly authorized person, even if the first interview shows that the applicant obviously is not eligible for aid.

A. *OAP, AB, and APTD*—When an entire family is requesting aid, take a separate application on each person within the group who may be eligible for aid in his own right.

B. *ADC*—Take an application for each separate family unit within a household, provided a different person assumes guidance and control for each group of children. (See "Persons to Include in a Budget" in Chapter Three.) Within family units, take an application for each person eligible for some other form of aid.

Do not count as an application a referral made for a person without his knowledge and consent, except when application was made by a legal representative, legal guardian, or one of the persons specified with whom a mentally handicapped minor lives.

Do not take applications on persons who make inquiries only. When it appears that a person concerned in an inquiry or a referral may become an applicant, make a master index card and post it on the back as "Inquiry" or "Referral."

Clear every application with the master index card file on the date it is received. If no previous record is found, make a master index card and file it. The date of the

request is the official date of application. Make a control card on every application immediately upon receipt of the application. Handle and report all applications according to financial and statistical procedures in Chapter Four and instructions for preparing the monthly statistical report relating to applications in Part II of the manual.

Handle a reapplication in the same way as a new application.

III. *Application Interview*

Interviews are usually held in the office, in an intake center, or in the home. When an applicant is too ill or too handicapped to be interviewed, interview his legal representative, legal guardian, or the person directly responsible for his care.

A. *The first interview* is an important part of the process of determining eligibility and the need for other services. Follow the procedures given below:

1. Explain eligibility requirements, a person's right to a fair hearing and the procedure for requesting a hearing. Give each applicant a copy of the eligibility requirements if he wishes one at the time of application; otherwise, tell him that a copy will be mailed to him along with the decision on his application. (Refer to Administrative Letter No. 2103, January 24, 1966, relating to appeals and fair hearings.)

2. Explain methods of establishing eligibility.

3. Explain the need for making contacts with relatives and references.

4. Explain the use of documentary and other records for verifying factual data in establishing eligibility.

5. Secure from the applicant information as follows:

a. A clear statement of how he managed in the past.

b. Explanation of changes that made him come to the agency.

c. All possible factual data regarding points of eligibility.

d. Face sheet information.

e. An application form and any forms needed to establish eligibility.

f. As much budget information as possible. (Use budget form, PSD-43, and statement of income and resources, PSD-113 or PSD-137.)

g. As much information as possible about his need for social services.

6. Tell the applicant of the following, if during the application process there is indication that he may be eligible for aid.

a. Possible amount of the money payment he may expect and the fact that its use is unrestricted.

b. Amount of vendor payment for nursing home care to which he may be entitled and any medical benefit to which he may be entitled.

c. Necessity for making reviews annually (6 months, ADC), or more often if needed.

d. His responsibility to report any change of circumstances that affects his eligibility; as examples, acquisition of real property or income and resources; change in budgeted needs or address.

e. Penalties for misrepresentation of facts.

f. Quarterly filing with the Probate Judge of all recipients' names and grants (with the exception of ACFC recipients).

g. Method of endorsing his check.

h. In ADC cases—notice to law-enforcement officials in cases which appear to involve desertion or abandonment by a legal parent and other appropriate requirements as given in the section, "Determination of Other Factors Relating Particularly to Aid to Dependent Children," in Chapter Two.

(Refer to "Basic Data Which Must Be Recorded" in this chapter for instructions on information relating to eligibility to be recorded in the case record. Refer to Chapter Five for recording of other services.)

B. *Application Form*—Have an applicant complete an application form at the point when he decides that he wishes the agency to pursue his application to a determination of eligibility or ineligibility. Help him complete the application form when necessary. No person other than the applicant himself, the grantee relative seeking ADC, a legal representative, a legal guardian, or the responsible person with whom a mentally handicapped AB or APTD minor lives, can sign an application form. Complete this form in duplicate. Give the copy to the applicant and place the original in the case record.

IV. *Disposition of Application*

A. *Standard of Promptness*—Not more than one month shall elapse between the date of application and date of payment, rejection, or termination for other reasons, with the following exceptions:

1. The applicant and/or the agency, after repeated attempts, has failed to secure the necessary facts regarding eligibility and further time is indicated to make the follow-up.

2. Staff vacancies, illness of staff, inaccessible roads, or volume of work makes it impossible to complete the investigation.

3. In ADC, an applicant may need additional time to present evidence that the relationship with a substitute parent has been discontinued. In no instance shall more than 60 days be allowed. (See "Child Ineligible if There Is a Mother or Father Substitute" in Chapter Two.)

Make plans to complete as quickly as possible the investigation of such applications. When an application is disposed of, show in the narrative record and on the control card what disposition is made and include in the narrative record the reasons for the disposition.

B. *Approval*—Approve an application when the investigation shows that all points of eligibility are met. Authorize payments only when the investigation is completed and the data proving eligibility are typed in the case record. In TA cases, however, an emergency may make it necessary to grant aid before completing the investigation. In these cases, complete the investigation and record it within five days after the emergency aid is given.

Authorize payment promptly to each eligible applicant and continue it as long as he is eligible and any payments are being made under the specific category. An applicant must be in Alabama when his application is approved.

Exception: If a person, whose State residence is clear, becomes ill while temporarily outside the State, request the welfare department in the other state to make an investigation. If such a person is eligible, approve the application while he is outside the State. If he is still out

of the State when the first payment is due, make the payment and continue aid as long as he retains Alabama residence and remains otherwise eligible.

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Notify each approved applicant in writing of the decision on his application. Do this in accordance with instructions in Chapter Four and Administrative Letter No. 2103, January 24, 1966.

C. *Disapproval*—Disapprove an application when an applicant fails to meet one or more requirements of eligibility. Also disapprove an application if an applicant fails to furnish necessary data within a one-month or a 60 day period as noted in item 3 under "Standard of Promptness." Do not, however, disapprove an application because of some unavoidable delay that is not the client's fault; for example, a delay in hearing from the Census Bureau regarding age.

Notify the client in writing if he is disapproved and tell him why. Do this in accordance with instructions in Chapter Four and Administrative Letter No. 2103, January 24, 1966.

D. *Termination for Other Reasons*—Applications may be disposed of because of death, inability to locate an applicant, or at the request of the applicant. In such cases, show in record the reason for termination of the application. It is not necessary to send a notice of decision, unless a person decides to withdraw his application. PSD-70, "Denial of Aid," can be used to confirm in writing that the person withdrew his application.

V. *Review of Action Taken by County Department*

A. *Review by County Board*—In any category, the county board of pensions and security has the legal authority to review, approve, disapprove, or amend the

award made by the county department, if it so chooses. Board action, however, must be in accordance with Federal and State laws and requirements. The county board should be well acquainted with all sections of Federal and State laws and with policies and rules of the State Department and the Federal Department of Health, Education, and Welfare governing the granting of aid. The county director is responsible for keeping the county board informed of changes in law, policies, and rules.

If the county board reviews action on cases, the board minutes must clearly indicate this. The minutes must also show the board's decision in each case. The use of PSD-25, Revised, is optional with the county board. If used, it must be properly filled out and filed in the form section of the case record. If it is not used, the case record must give the board's action and the date thereof.

B. *Review by State Department*—The State Department has the legal authority to review applications for public aid and to review disallowances or modifications of awards made by the county departments. The State Department may make decisions as to the granting and the amount of payment. These decisions must be based on facts and must be in conformity with the public aid laws and policies in effect. Decisions by the State Department shall be complied with.

Section II

How to Determine Initial and Continuing Eligibility

To receive public aid, a person must meet eligibility conditions for a given category.

I. *Initial Eligibility*

To determine the eligibility of an *applicant*, show that every condition or requirement is met.

II. *Continuing Eligibility*

To redetermine eligibility, show that the *recipient* continues to meet every condition or requirement subject to change. Points of eligibility such as age or total blindness need not be reestablished. In the adult categories, establish continuing eligibility according to "Review Process Using Statement on Eligibility Factors for OAP, APTD, and AB" in Chapter Three. This method relies largely on a signed statement by the recipient and spouse. Rev. 23. See A. L. 2239, 2-6-67. Effective 1-1-67.

Redetermination of eligibility must be made for every recipient in the adult categories at least once every 12 months (6 months, ADC). More frequent redeterminations are necessary for recipients whose circumstances are more likely to be subject to change or when information indicates conditions have changed.

Enclose a copy of the appropriate eligibility statement with each change of status affecting the payment and with each termination of award. (Refer to "Application Interview" in this chapter and to Administrative Letter No. 2103, January 24, 1966.)

Each county department must review insofar as possible 25 per cent of active cases in the adult categories during each quarter of the fiscal year. In ADC, 50% of the cases must be reviewed each quarter.

III. *The Investigation*

To determine initial or continuing eligibility, investigate and secure facts to establish that each point of eligibility is met. (Refer to "Review Process Using Statement on Eligibility Factors in OAP, APTD, and AB" in Chapter Three.) Given below are procedures to be followed in making the investigation.

A. *Preparing for the Investigation*

1. Clear the files for available records on the applicant or recipient.

2. Study material in the record to become familiar with the facts at hand.

B. *Conducting the Investigation*

1. *Interviews*—Interview the applicant/recipient at least once during each time eligibility is determined. If he is too ill or handicapped to be seen, however, interview the person directly responsible for his care or the legally authorized representative. (If the client cannot be seen because of an acute illness, interview him when and if he becomes able to be seen.) If the applicant/recipient is out of the county, ask a representative of the social agency in the county where he is visiting to make the investigation. The report of the interview must be in the case record.

2. *Home Visits*—Given below are rules about making home visits. While these provisions apply in general, a worker is not expected to make a home visit if circumstances are such that it would be hazardous for the worker or for the applicant/recipient. When hazardous conditions exist, office visits should be substituted for home visits whenever possible.

a. *OAP*—A home visit is not needed to establish initial or continuing eligibility; make one, however, when indicated.

b. *AB and APTD*—Make at least one home visit during the process of establishing initial eligibility. A home visit is generally not needed to establish continuing eligibility.

c. *ADC*—Make at least one home visit to establish initial and continuing eligibility.

d. *TA*—A home visit is not required.

Although home visits are not usually made for OAP, or for continuing eligibility in the other adult categories, they must be made if an applicant/recipient is unable to come to the office or it is inconvenient for him to do so. *A case should not be closed because the applicant/recipient has not met an appointment for an office interview.* In such a case, the agency should assume responsibility for seeing the applicant/recipient at his home or some other place convenient to him.

When a home visit is made and the applicant/recipient is not present, interview other persons in the household who can give pertinent data. Also, record worker's observations. Another home visit will not be required if necessary information can be secured from the client by interviewing him in the office or elsewhere.

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(Refer to "Criteria for Evaluating Home Conditions Which May Be Hazardous to Children and Procedures to Be Followed When These Conditions Exist" in Chapter Two and "Services in Addition to Establishing Eligibility" in Chapter Five for situations in which additional contacts are needed.)

C. *Verifying Information.*

1. *Sources of Information*—The applicant/recipient is the most important source of information in the determination of his eligibility. He may have information or may be able to secure documents or other evidence needed to establish his eligibility. Make any

verification of the client's statement through the source having the facts at hand, if possible. For example, if a person has a bank account, verify the amount through the bank rather than through a secondary source. Tell the client of the evidence needed and how it may be obtained. If the applicant/recipient cannot secure the necessary verifications, try to secure them for him. (For continuing eligibility in the adult categories, see "Review Process Using Statement on Eligibility Factors for OAP, APTD, and AB" in Chapter Three. Less verification is required when this method is used.)

If the county department is to clear with banks, insurance companies, post offices, or other sources which do not disclose information without authorization, obtain such authorization in writing from the client.

2. *Procedure to Be Followed in Interviewing References*—When references are used to verify certain points, there must be a clear understanding by the client, reference, and county department concerning the following:

a. The determination of eligibility for public aid is the responsibility of the county department and references are not expected to recommend that aid be approved or disapproved.

b. A person is used as a reference only if he has definite facts which he is willing to give about points of eligibility. For example: (1) wages—the employer(s); (2) residence—neighbors, etc.; (3) rent—landlord; (4) certain types of income—source of income or merchants who may cash other checks.

c. Workers should always explain clearly to references why certain information is needed

from them. When this is done, references will gain a better understanding of the usefulness of the information they give.

d. The county department will request specific information about the points for which verification is needed. General questions, such as, "Do you think this person needs aid?" will not be asked.

e. The reference must be told that the case record will include the facts he gives pertaining to eligibility.

There may be times when a client objects to the use of a particular reference. If so, consider his reasons for objecting and select another reference, if indicated.

3. *Refusal to Provide Necessary Information*—If a person refuses to supply, secure, or authorize the worker to secure necessary information, deny assistance, as eligibility cannot be established. Explain clearly why the information is needed and that the person has one of three choices:

a. He may have his eligibility determined by providing the information or authorizing the worker to obtain it;

b. He may withdraw his application or ask that his case be closed; or

c. He may be denied aid because eligibility cannot be established.

D. *Taking Action on Basis of Findings*

1. Record all facts pertaining to eligibility in the narrative and/or on official forms adopted by the State Department. The investigation is not complete

until these facts have been recorded in the case record.

2. Evaluate information to determine if all points of eligibility are met.

Evaluate factual data jointly with the client in regard to legal requirements, agency policies, and program limitations so that the agency's final decision can be valid, mutually understood, and accepted. If several sources give conflicting information, evaluate the reliability of each and specify in the record which source was accepted and why. Make the final determination of eligibility on the basis of the most reliable source.

3. Approve, continue, deny, or terminate aid.

Section III

The Case Record

I. *Content of Case Record*

A. *Separate Case Records*—Maintain a separate case record on each person applying for, approved for, or receiving aid in his own right with the exception of those referred to under the heading, "Combined Case Records," that follows. Include in the case record all necessary forms, a chronological narrative, and any correspondence relating to the particular case. Financial and statistical records, such as the award authorization and the control card, are a part of the individual case record, even though they are filed in a separate place (see Chapter Four).

B. *Combined Case Records*—Maintain *only one case record* in the following instances:

1. A husband and wife live together in a common household and are both eligible to receive aid in their own names.

2. Each spouse receives aid in his own right and, in addition, one serves as grantee relative for ADC.

3. One person receives aid in his own right and also serves as grantee relative for ADC.

In the instances cited above, maintain a separate budget, index card, control card, financial authorization form, etc., for each person approved and for each type of aid. Keep only one narrative section. Include in the case record information to establish eligibility for each person approved for, or receiving aid, in any category.

II. *Case Numbers*

Maintain a separate case number for each person making application. A case number once assigned is never to be used for any other person.

In the three instances cited earlier under the heading, "Combined Case Records," where only one case record is maintained, supplement the case number by a different alphabetical prefix for each person for whom an application is taken. Never use again the original number without a prefix in these cases. The alphabetical prefix becomes a permanent part of the case number for these persons.

When children have been receiving ADC but are temporarily residing with other related persons, or unrelated persons assume responsibility for the children in their own home or in a licensed boarding home, close the last ADC case but use the same case record during this emer-

gency period. After closing the original case, add a prefix in the case record to the case number for the person in whose name aid has been given. Use the same case number with a different alphabetical prefix (example, "A," "B," "C," etc.) for each additional grantee or person in whose name payment is made during the temporary period. In ADC-FFC, use a different prefix for each child from the same family placed in a foster home even if all the children are placed in the same foster home.

III. *Purposes of the Case Record*

A.-To substantiate agency action at all times by containing proof of initial and continuing eligibility or valid reasons for the disapproval, discontinuance, or change in the amount of aid.

B. To provide a clear picture of the client and his actual situation as the basis for financial aid and other services to the client within agency functions.

C. To prevent needless repetition of the client's story when workers change and to afford continuity of service.

Because the case record serves these purposes, it is useful in the evaluation of agency practice, in supervision, and in research.

IV. *Recording*

A. *Basic Data Which Must Be Recorded*

1. Identifying information about the client, including a face sheet which is kept current.

2. Date and reasons for the application, with a clear statement as to how the applicant has managed in the past.

3. Information to establish each point of eligibility, including the client's own statements, plus further

verification when needed. (Refer to "Review Process Using Statement on Eligibility Factors for OAP, APTD, and AB" in Chapter Three.)

4. The fact that a copy of the summarized eligibility regulations was given and/or mailed to the client. (Refer to "Application Interview" and "Continuing Eligibility" earlier in this chapter.)

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5. The fact that the following were explained to the client:

a. The penalties for misrepresentation of facts.

b. His responsibility to report changes in circumstances.

c. The filing of lists of recipients in probate offices.

d. Endorsement of check.

e. Notice to law-enforcement officials in ADC cases appearing to involve desertion or abandonment.

(Record items 4 and 5 on the face sheet. If additional space is needed, continue the recording on a separate sheet attached to the "Case Face Sheet.")

6. An evaluation of the client's ability to understand explanation given to him of agency policies, his responsibilities, and the penalties.

7. Other social information which will help in understanding the client's needs and in determining services which may be given within the functions of the agency. (See Chapter Five, "Services in Addition to Establishing Eligibility.")

8. Basis for approval or disapproval by the agency, with dates of action. (The financial form suffices for changes in payment.)

9. Specific plans for future action by agency or client.

B. *Method of Recording*—Study all information secured and record only that which serves the definite purposes of the case record. Verbatim reports of what the worker and the client say and do, if used too frequently, may obscure essential data. Include sufficient information regarding the social and economic situation of the client and his family to enable the worker to understand and to help with problems. (See Chapter Five, "Services in Addition to Establishing Eligibility," noting particularly "Social Study.")

Use the chronological method of recording; that is, record entries as they occur by dates. Show the date in the margin and give the name of the worker at the close of the entry. If more than one interview or contact takes place on the same day, the date need not be repeated but enter "Later" in the margin. The worker must sign or initial each entry.

Begin each case record with the application(s). Include a brief statement about how the applicant was brought to the attention of the agency, date and reasons for application, name of person making application, and the name of person(s) for whom application is made. Record other essential information received at the time of application. When a reapplication is made following denial or discontinuance of aid, begin the continuing record with "Reapplication."

Set out clearly in the record specific data regarding points of eligibility. Topical headings are helpful. Include in each entry the name of the person interviewed and the place of the interview. To avoid confusion, distinguish clearly the identity of individuals. Use of the

given names of children or the given and surnames of adults tends to individualize persons. Also, for an adult, always use the appropriate courtesy title, such as Mr., Mrs., Miss, Dr., etc. If the source of information is stated at the beginning of an entry, it is not necessary to repeat the informant's name, unless several persons have participated in the interview. Record accurately pertinent information with enough detail to give the interpretation intended by the informant.

Instructions for recording in specified situations are given below:

1. *References*—Include in the case record the name and address of every reference used, the date of interview or correspondence, the length of time reference has known the client, his relationship to him, the definite information given by the reference regarding specific points of eligibility and the basis for his statements, along with any other pertinent information.

2. *Documentary Evidence*—Record the nature, location, and date of the document, together with the information considered as authentic proof of eligibility found in it. Paste clippings on full size sheets, with date and identification given.

3. *Letters*—Enter in the margin the date a letter is sent or received. Give in the entry the name of the person being written to, or writing, and the purpose of the letter. When a letter is used as proof of any point of eligibility, summarize in the entry pertinent factual data.

4. *ADC-FFC*—Develop and record a plan of treatment for each child. Enter in the ADC record all pertinent information relating to the child during placement in the foster home. "Child's Personal Record,"

PSD-21, as contained in the child welfare manual, may be used for this purpose. Also, enter in the ADC record information regarding efforts to help parents improve home situations. Secure information about the foster home according to instructions in the child welfare manual.

V. *Arrangement of the Case Material*

To facilitate use and provide state-wide uniformity, arrange material in the case record in four sections in the order given below:

A. *Current Forms*—Hold these together with a gem clip, or by some other satisfactory method, and arrange them in the following order:

1. Face sheet.

2. Current budget.

3. "Statement of Income/Resources, and Certain Needs," PSD-113, (ADC), or "Recipient's Statement of Eligibility Factors," PSD-137, (OAP, AB, and APTD).

4. Farm form.

5. Application form.

6. Medical information.

7. Verification of age.

8. Any other current forms.

B. *Narrative*—Number the narrative pages and arrange them in numerical order, preferably with page one on top. Typing should be single spaced. Hold pages together with a gem clip or by some other satisfactory method.

C. *Correspondence*—File this chronologically with the most recent correspondence on top and hold together with gem clips or by some other satisfactory method.

D. *Obsolete Forms*—Hold these together with gem clips or by some other satisfactory method.

If it becomes necessary to have a second volume to a case record, file the obsolete forms and old correspondence in Volume II. File the current forms and the entire narrative, unless too bulky, in Volume I.

When separate case records are being prepared on persons previously included in other case records, make a cross reference to the related case number in the place provided for this on the face sheet. Also, at the beginning of the new case record, make the following entry: "For previous case information, see Case No. ....., (John Doe)." Also give a cross reference on the master index card.

VI. *Mailing Case Records*

When it is necessary to mail a case record, always send it by certified mail, return receipt requested, unless there is a large quantity and express would be cheaper. If express is used, send the material "collect" to the State Department.

14. Benefits received under Title III, Part B of the Economic Opportunity Act. Benefits are provided to help meet special needs of migratory workers and seasonal farm laborers in certain fields, such as that

of education. Disregard the total amount of benefits received under Title III, Part B of the Economic Opportunity Act in determining need. Follow the same general policies as stated earlier for Titles I and II of this same Act, except for the difference in the amount of benefits to be disregarded.

15. For a period of not more than 12 months, the first $85 per month or less of earned income paid through any program funded under Title I of the Elementary and Secondary Education Act of 1965. For the purpose of this section, "earned income" is defined as payments received by children and adults for participation in activities such as those of teachers' aides, clerical aides, lunch room workers and other activities carried on as part of a project approved under Title I of this Act and funded by grants from the Federal Office of Education. Local school authorities will be able to identify earnings that are charged to a Title I project by the State Department of Education.

Follow the same general policies as set out in the second and third paragraphs immediately preceding Item "13" on page III-20 of this section for assistance benefits provided under Titles I and II of the Economic Opportunity Act in considering the disregarded amounts under Title I of the Elementary and Secondary Education Act. Budget all income from this source that is in excess of the $85 disregarded amount after first deducting allowable expenses incidental to earning income, such as those for transportation, extra food and clothing for a working person, compulsory payroll deductions, etc.

16. Training *incentive allowances* and *expense allowances* paid under provisions in the 1966 Amendments to the Manpower Development and Training Act.

a. *Policies Relating to the 1966 MDTA Amendments*—The 1966 MDTA Amendments prohibit *regular or youth training allowances* being paid to recipients of public assistance. To encourage participation in these programs, however, provision is made for payment to public assistance recipients of *training incentive allowances* of not more than $20 per week and *expense allowances* to defray costs attributable to training (including amounts for subsistance and/or transportation), the total of which must be disregarded in determining eligibility for public assistance and the amount of the payment.

Follow the same general policies as stated in the second and third paragraphs immediately preceding Item "13" on page III-20 of this section in considering the amounts disregarded under the 1966 MDTA Amendments.

Note: The MDTA also provides for some on-the-job training. A person participating in this type of MDTA program is considered as having a regular job, despite the training element involved; therefore, in

determining need, consider the total salary received for on-the-job training, less expenses incidental to earning it, such as those for transportation, extra food and clothing for a working person, compulsory payroll deductions, etc.

b. *Utilization of Resources Available Through MDTA*—Refer persons potentially eligible to participate in a MDTA program to the local office of the State Employment Service. In ADC, it is important that a person who is potentially eligible for training under MDTA accept referral and, if found

eligible, participate in the program offered. If he refuses, however, do not deny or terminate aid but consider with him the reasons for his refusal. Reasons for refusal will include:

(1) The applicant/recipient's presence in the home is required because of the illness or disability of a family member or to give proper care and supervision to a child when alternate suitable arrangements cannot be made. (Refer to "Employment of Parents and Children" in Chapter Two.)

(2) Such training does not appear to be a reasonable goal to set because of the location of the training facility outside of the community of residence, difficulties involved in transportation to and from the facility, the client's motivation, aptitude, maturity, capacity, etc.

In some situations it may be reasonable to set participation in one of the MDTA programs as a long-range rather than an immediate goal in the plan for service. In such case, the achievement of this goal at some future time may be realized through counseling with the family and its individual members and the working out of alternate plans when problems having to do with the proper care and supervision of children, the care of ill or disabled family members, transportation difficulties, etc. are involved. Recipients accepted by MDTA will automatically be paid a *training incentive allowance,* the only type of allowance to which recipients are entitled from that agency. Determine by clearance through the local office of the State Employment Service the amount of training incentive and expense allowances being received and the amount of the training and expense allowance to which a recipient would be entitled if he were not receiving public assistance. Often it will be

to a person's advantage to have his public assistance payment terminated or his application denied or, in the case of a child under 21, his needs removed from the budget so that he may receive the higher MDTA training and expense allowance, even though the total amount of the training incentive and expense allowance is disregarded. Help the individual to reach a decision that will be to his advantage. Terminate or deny aid or remove the needs of a child under age 21 from the budget only at the person's request. When aid is denied or terminated, always notify the local office of the State Employment Service of the action being taken and the effective date of such action.

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In some instances, a non-recipient participant in a MDTA program will be entitled to an allowance for dependents. When aid is discontinued for or denied to a child under 21, include in the ADC budget the amount of any MDTA allowance he receives for dependents who continue as recipients.

17. Vendor payment contributions for medical care, hospitalization, and certain designated items in nursing home cases.

C. *Income to Be Considered in Budgeting*

Take into consideration *net* income which comes in regularly, such as weekly, monthly, quarterly, semiannually or annually. "Net income" is defined as profit after deducting allowable costs of earning gross income. Given below are sources of income *which must be explored*:

1. *Income from Wages, Salaries, Commissions, or Fees*—To arrive at net income from these sources,

subtract the following expenses incident to earning income:

a. Compulsory payroll deductions, such as social security insurance, unemployment compensation, income tax, hospital insurance (except policies that duplicate services available through OASI or railroad retirement for persons 65 and over), etc. Provisions for considering insurance for health needs in OAP, AB, and ADC are given elsewhere.

b. Transportation, tools, or other compulsory expenses. Provided there is some net income, payments on purchase of a car necessary for transportation to and from work are deductible; eight cents per mile for transportation to and from work may be used as the expense to allow for oil, gas, and upkeep unless a person wishes to present a record of actual expenses.

c. The cost of extra food, whether eaten at home or in public eating places, and extra clothing. The State Department has set a flat deduction of $10 per month per working person for these items. When a person works less than 20 days a month, deduct the entire $4 for extra clothing and deduct 30 cents per day for extra food up through 20 working days. (If meals are furnished free, do not make the deduction for extra food.)

Exception: If a working person is completely inactive, do not make the deduction for extra food and clothing. As an example, a bedridden or chairbound person may earn money by counselling with his family on farm operations. This person would not be allowed the deduction, but his wife and children who do the work would be.

As another example, a person may earn money through telephone calls made from his home.

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b. When a relative claims a client as an income-tax dependent, he is expected to furnish an amount equivalent to at least one half of the client's budgeted needs. (This does not apply to a spouse or a parent in the home whose children receive ADC. The spouse's contribution is determined by a trial budget and the parent's income is either in the ADC budget or in another public assistance budget.) It is permissible for the contribution to be income in kind or a vendor payment for medical care or hospitalization. The same general policies apply when a relative receives increased benefits through the Veterans Administration or other organization because he claims a client as a dependent. He is expected to spend these additional benefits on the client.

(1) When a relative claims a client as an income-tax dependent but does not furnish at least one half of the client's support, tell the client and the relative that one of the following actions must be taken:

(a) The relative must make the expected contribution; or

(b) The relative must stop claiming the client; or

(c) The client must notify the Internal Revenue Department that he is not receiving one half of his support from the relative; otherwise an assumed contribution of one half of his budgeted needs will be shown in his budget.

When a client has been claimed without his knowledge as a dependent in the previous year,

show as unreported income only actual contributions made to him. In the case of an applicant, if a relative(s) has fully supported the applicant for at least one half of the calendar year but cannot continue doing so, show in the budget only future continuing contributions, as the relative has already furnished the required one half before date of application.

(2) It is not necessary to make routine investigations of relatives' contributions; that is, writing or interviewing them routinely. Examples of when contacts will be needed are:

(a) A relative has in the past or is currently contributing toward the client's needs;

(b) There is reason to think that the relative claiming the client as a dependent for income-tax or other purposes;

(c) A child or other close relative lives with the client or within the immediate vicinity and the agency is unfamiliar with his circumstances. Interview this relative, if possible; however, if reasonable efforts are made and it is impossible to do so for such reasons as his leaving the home early and returning at night, the necessary information may be secured by telephone or letter.

(3) When there is no indication that a relative should be contacted, accept the client's statement that he is not claimed as a dependent for income-tax or other purpose, that he receives no contribution, or that he does receive a contribution in a definite amount, provided there is some supporting information. Given below are examples of supporting information.

(a) The person says that his children are living outside the county or the State and that he has not seen or heard from them in a year or more.

(b) The counsellor is familiar with the children's economic situation.

(c) There is no evidence of purchases or savings which cannot be explained satisfactorily.

Exception: Refer to pages 34 and 42 under "Deprivation of Parental Support" in Chapter Two for contributions expected from parents absent from the home in ADC cases. Also, see in this chapter budgeting ADC families as a unit under "Persons to Include in the Budget."

c. *Shelter*—Apply the applicable policy below.

(1) If a *client lives in the home with someone* who contributes shelter-in-kind, show the minimum shelter allowance as income. (Since part of the shelter cost is included in every budget, show no contribution from an ineligible spouse or from other recipients in the same household unit.)

(2) If a *client lives rent free in a separate house,* upkeep is usually his responsibility. Therefore, show no income from shelter unless the contributor assumes responsibility for the upkeep, in which case show the minimum shelter allowance as income.

(3) If someone contributes shelter-in-kind by way of vendor payment to the landlord, show as

income the actual total amount of the contribution or the maximum that can be budgeted for this item, whichever is less.

d. *Other Basic Requirements*—Use Tables 1, 1-A, 1-B, 1-C, 1-D and 2. When all of an item is provided, show as income the cost figure for that item. When a fractional part is provided, show as income the fractional amount of the cost figure for the item, provided it plus other income is worth more than $1 per month, except that no income shall be shown for meals furnished to a working person. (Show no contribution of these items from one recipient to another in the same household unit. The contribution, if any, from an ineligible spouse is determined by use of a trial budget according to instructions under "Income/Resources of Spouses" in this chapter.)

IV. *Reserve Policy—OAP, AB, APTD, ADC*

A. *Purpose*

The State Department has established a reserve policy to enable a person, couple, or ADC family to retain some readily available resources for such purposes as meeting emergencies and producing income. Explain this to each applicant/recipient.

B. *Amount of Reserve*

OAP, APTD, ADC—$1,000 for a person or a married couple living together, or in ADC a family unit. *Exception*: The AB reserve ($1200) will be allowed for the spouse of an AB recipient and for and ADC family where

the parent is also an AB recipient and living with the spouse or family.

AB—$1200 maximum for a person or married couple living together.

C. *Consideration of Resources*

1. *Applicant/Recipient*

a. Before a reserve is set aside from resources, the resources may be used in any of the following ways:

(1) On a homestead. (Refer to "Acquiring a Home" for ways in which resources may be used in relation to a homestead.)

(2) To purchase basic, essential household furnishings.

(3) To pay for medical expenses, hospitalization, and nursing care incurred during the past year. (These would be expenses not otherwise paid for.) This includes purchase of medical appliances, such as braces, hearing aids, dentures, and eyeglasses.

(4) To pay for funeral expense of deceased spouse or dependent children.

There must be no duplication in expenses previously considered in the budget or otherwise.

b. After the reserve is established, divide resources above the limitation by the number of months in the budget period and show them in the budget.

2. *Applicant*

Take an applicant where he is at time of application unless the preceding 12 months (6 months, ADC):

a. He appears to have spent resources above the limitation to qualify for aid, in which case bar him from aid for 12 months (6 months, ADC) from date of application. Do not consider that he spent resources to qualify for aid if he spent them for ordinary living expenses (not subject to agency standards), medical expenses, purchase or improvement of a homestead, purchase of or improvement of income-producing property, or for other usual expenditures incurred during the past 12 months (6 months, ADC).

b. He appears to have given away resources of any value, in which case consider their net value as still available.

3. *Recipient*

a. Permit a recipient to rebuild his reserve from resources if he spent the reserve in ways listed in "1 a" under "Consideration of Resources" or if the reserve had one or more items which depreciated in value.

b. When a recipient fails to report resources received between reviews, follow policies in "1" under "Consideration of Resources" and under the unreported income/resource policy. Any resources which should go into the reserve or budget will be put there, whether they are on hand or not.

Example: When a case is reviewed, an OAP recipient has or will receive $1,000 in resources which will be counted as his reserve for the coming year. During the coming year, he receives $500 in additional resources which he does not report. At the

time of the next review, it is found that he has spent his reserve in ways not permitted by the agency. The $500 additional resources must, therefore, go into the budget.

D. *Resources Considered Under the Reserve Policy*

A reserve may be built from resources, such as those listed below. It cannot be built from current income (including income which comes in only once a year, as farm income). It may, however, be built from savings from the grant or income/resources already shown in the budget and in AB from earned income which has already been disregarded during a budget period. Within the reserve, one form of allowable resource can be converted into another as the client sees fit.

Consider under the reserve policy the verified *net* value of resources such as the following:

1. Resources used in a business.

2. Livestock and poultry, including the basic livestock and poultry used in the production of home produce. If a person is going to sell or eat any of these items, do not count them in the reserve.

3. Cash, including unreported resources. Refer to discussion earlier about disregarded income under Titles I and II of the Economic Opportunities Act. See Adm. Letter 2070, 11-2-65.

In farm cases, this includes money already spent by recipients (not applicants) for items deductible during the current crop period.

Example: A recipient has spent $200 of his reserve for fertilizer for the current crop. Show the $200 as if it were still on hand because (a) when the standard

expense figure is used, fertilizer expense is considered; (b) when all expenses are itemized, the cost of fertilizer is shown as an expense.

This also includes money from a *mortgage* provided the money does not have to be repaid or is not going to be repaid *and* is not to be used in ways permitted by the agency.

4. Bank or postal savings.

When there is a joint account with someone other than a spouse, assume that half of the money belongs to each; if in the name of three persons, a third belongs to each, etc. This rule will not apply, however, when there is convincing evidence to the contrary. For example, a son opened a joint account for his mother to use in case of his serious illness or death. This can be substantiated by one of the following types of evidence: (a) the son earned the amount just before the deposit and his mother had no earning capacity; (b) the son sold his property just before the deposit; or (c) qualified references give substantiating statements.

Note: In computing the allowable reserve, disregard that part of the current month's check still on deposit and any savings from public assistance checks for items in the budget, such as fuel and clothing, which are often bought seasonally. Also, disregard cash on deposit for payment of outstanding bills which have been recognized in determining net income; for example, total farm income may have been deposited before recognized expenses have been paid.

5. Stocks, bonds, and like investments at their current value. For a United States Series E Savings Bond which has not reached its maturity value, count the purchase price until the bond matures; then count its full face value as a resource. If it is not sold,

show each year's annual interest as income. If it is later sold, count the face value only as a resource and do not count the interest again.

6. Money out at loan.

If money at loan is to come in over a period of years, count as a resource within any one budget period the actual amount to be received. Count interest on the loan as income. Require a person to take legal action, if necessary to collect a loan which is not being repaid.

7. Motor vehicles at their estimated current retail value. *Exception*: In AB, disregard the value of a motor vehicle used for personal or business transportation.

8. Cash surrender value of *life* insurance. When a person cannot cash insurance because of legal qualifications, do not count its value as a resource; for example, when the insured is not the owner of the policy.

When a client is beneficiary of an insurance policy, recognized outstanding debts of, or for, the deceased incurred for his last illness, burial (including tombstone), and recent living expenses. The client must present evidence of having paid such debts.

9. Real property other than the homestead. To get its value for the reserve, use assessed value less legal encumbrances. Require the client to make every possible effort to utilize this property.

In AB, exclude real property other than the homestead with a net assessed value of $5000 or less from consideration in relation to the reserve policy under the following conditions:

a. The property is producing income reasonably consistent with its value. The gross income will be considered "reasonably consistent" if it is in line with income received from similar property in the particular community.

b. The income received from the property is being used by the applicant/recipient for his support. This income will be disregarded if it is in line with "earned income" policies.

10. Lump-sum benefits or short-time benefits received from sickness and accident policies. Only net should be considered, as premium costs, medical expenses, etc., will be subtracted.

Section V

Mortgages

Never consider payment and interest on principal above the amount that the mortgage contract specifies.

I. *Mortgages on the Home*

A. *Applicant*

Follow the appropriate policy below.

1. If the home was mortgaged before the person applied for aid and the money was spent, budget required payments on interest and principal under shelter policies, with the following qualifications:

a. If the applicant mortgaged a homestead above the limitation during the year preceding application, thus bringing its value within the limitation, assume that he disposed of some prop-

erty to qualify for aid unless he can show that the money was spent for necessary purposes.

b. If the money was spent for current crop expenses, give no consideration to the mortgage as such since crop expenses were considered in developing the farm standard expense figure and are allowed as separate items when gross income minus expenses method is used.

2. If the money from the mortgage is still on hand at time of application, follow the applicable policy below.

a. If it is to be spent on allowable repairs, additions, etc., to the home, consider repayment under shelter policies.

b. If the money is to be spent for current crop expenses, handle as in "1 b" above.

c. If the applicant does not plan to use the money in ways permitted by the agency, explain that the agency will allow him to repay the mortgage with the money. Otherwise, the money will be counted as a resource.

B. *Recipient*

After a person becomes a recipient, if he mortgages his home or increases the amount of a mortgage, follow the applicable policy below.

1. If the money was spent for reasonable and needed repairs, etc., consider required payments on interest and principal under shelter policies.

2. If the money was spent for current crop expenses, follow the policy under "1 b" for applicants.

3. If the money was spent for items not recognized by the agency, make no allowance for repayment.

4. If the money is still on hand at time of agency contact, follow policies under "2" for applicants.

II. *Mortgages on Other Real Property*

When other real property is used in a business, required payments on principal and interest are a deductible business expense. Take an applicant where he is. In the case of a recipient, required payments on principal and interest are deductible only if the mortgage was made for reasonable repairs and additions necessary to make the property income-producing.

III. *Mortgages on Personal Property Used in a Business*

If there is a mortgage against personal property used in a business, such as tools and equipment, subtract repayments from gross income. In the case of a recipient, repayments can be recognized only if the mortgage was made to purchase or repair items necessary to make the business income-producing. The maximum on livestock and large equipment in farm cases must be observed.

IV. *Mortgages Held on Another Person's Property*

If the proceeds are to come in over a period of years, count as a resource within any one budget period the actual net amount of the principal to be received. Count as income interest on the principal. Require a person to take legal action, if necessary to collect a mortgage which is not being repaid.

Section VI

Policies Relating to Aid to the Blind

I. *Disregard of Income and Resources*—The Federal Social Security Act, Title X, as amended, provides that in

determining need consideration shall be given any other income aand resources of the individual claiming aid to the blind; except that, in making such determination, the State agency shall disregard:

The first $85 per month earned income plus one half of earned income in excess of $85 per month.

For a period not in excess of 12 months, such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan.

A. *Disregard of Earned Income*

1. *Definitions*—"Disregard" with reference to earned income of a needy blind person is interpreted to mean its exemption in determining current need and the amount of the assistance payment.

Section VIII

Erroneous Payments Resulting from Fraud or Other Factors

A recipient may receive public assistance payments to which he was not entitled for any one of various reasons Some reasons are:

1. The agency worker did not explain clearly enough eligibility requirements and the client's responsibility to give accurate information and to report changes in circumstances.

2. The client did not understand the explanation, perhaps because of deafness, low intelligence, lack of education, or senility.

3. The client for some reason failed to report a change in his income/resources, but not with intent to defraud.

4. The client did deliberately commit fraud.

5. The agency made an administrative error.

Some positive approaches to preventing erroneous payments through fraud and other methods appear to be:

1. To create an atmosphere of mutual trust, respect, and understanding which will encourage a client to be honest in his dealings with the agency. A climate of suspicion, arbitrary action, and harassment of recipients will discourage the kind of cooperative relationship between worker and client necessary to mutual exploration of his resources and potentialities for a better life.

2. To establish initial and continuing eligibility in an objective, efficient manner and to follow up promptly on any report of possible

ineligibility. Difficulties may be apparent when there is a reluctance on the part of an individual to give accurate and complete information or to assist the agency in securing facts pertaining to his eligibility. Such difficulties, if skillfully recorded, will guide the worker in determining the number and nature of future contacts with these persons. Skilled interviewing will also furnish clues to instances of possible misinterpretation.

3. To explain carefully at time of application and each subsequent review, the client's obligations and responsibilities to report all changes in his health, his income/resources, his living arrangements, and other facts that affect his need for assistance.

When assistance has been received erroneously through fraud or other circumstance, the agency must take prompt action about it. Given below are policies and procedures to be followed in the various situations.

I. *Fraud*

Public assistance applicants/recipients have the same basic human qualities of the general population and may be subject to the special pressures of social and financial insecurity. The great majority will be honest in dealings with the county department; however, a few will attempt to obtain assistance through fraud. When this occurs, the department of pensions and security will take whatever action is necessary to secure reimbursement.

The Alabama Public Welfare Act, Title 49, Section 17 (21), Code of Alabama 1940, as amended, relating to fraud reads as follows:

> "*Penalty for false representation.*—Any person who by means of a false statement knowing it to be false, or by willful misrepresentation, impersonation or other fraudulent device obtains or attempts to obtain or aids or abets any person in obtaining a public assistance grant to which such person is not entitled or a larger amount of grant than that to which he is justly entitled, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars and may be sentenced to hard labor for the county for not exceeding twelve months, or both. (1951, p. 1223, § 20, effective Oct. 1, 1951.)"

The statute of limitations for fraud is one year (see Title 7, Section 42, Code of Alabama 1940, as amended). The department of pensions and security will, therefore, recommend for prosecution only those cases in which suspected fraud was discovered within the past year.

A. *Elements That Constitute Fraud*

The three elements below must be present to constitute fraud:

1. There must be intent to deceive; that is, a person must knowingly obtain assistance by fraud. The term "knowingly" means "with knowledge" and refers to the knowledge of essential facts and from such knowledge of the facts, the law can presume that the person was aware that he could not lawfully do the act which he did. "Knowingly" means something more than carelessly and signifies guilty knowledge or evil or fraudulent intent. Consideration of suspected fraud should include careful evaluation of the client's opportunity to know agency policies and his ability to comprehend them.

It is important to have and evaluate the client's statement as to why he did the things that the agency suspects as fraud. It is essential that the worker be certain that he gave the client necessary information, because of the client's right to it and because the worker may have to testify in court as to this. The case record should at time of application and each subsequent review substantiate the client's opportunity to know agency policies, his responsibilities, and the penalties. The worker should record his estimate of the client's ability to understand.

2. The agency must rely upon the act, statement, or withholding of information; and

3. A person must have received a payment to which he was not entitled or a larger payment than that to which he was entitled because of the act, false statement, or withholding of information.

Fraud does not exist, even though a misstatement is made or information is withheld, when the undisclosed facts would not have affected eligibility. or amount of grant.

Given below are three ways by which fraud may be committed in public assistance cases.

1. A false statement.

2. Withholding of information.

3. An act with intent to defraud.

Given below are some examples of fraud in public assistance cases. In all of these cases: the agency relied upon the act, statement, or withholding of information; the recipient received a payment to which he was not entitled or he received a larger payment than that to which he was entitled; and the client's intent was to deceive.

1. An ADC parent became employed and self-supporting; however, he did not report this to the county department at the time of review, although the counsellor asked if he was working.

2. A recipient sold timber rights to a lumber company. The counsellor asked the recipient about this but he withheld the information.

3. An APTD recipient became regularly employed in a hospital. At the time of review, when asked if working, he stated that he was not.

4. A reference reported that a recipient was receiving OASDI. A representative from the county department asked the recipient if this was true. The recipient denied it. The county department got in touch with the OASDI office and found that the recipient was actually receiving benefits.

5. At the time of application, the counsellor asked the applicant if she had any money or other cash resources. The applicant stated that she had none. Some months later someone reported to the county department that this person had cash sewed in a mattress. The counsellor talked with the recipient again and asked a specific question about the location of the money. The recipient then admitted having it.

Since a number of fraud cases involve withholding of information, the case record must show that the client was aware of his duty to report the specific information which he withheld; otherwise, there will be no basis for court action in fraud cases.

B. *Procedures for County Staff to Follow When Fraud Is Suspected*

1. When a particular case appears to involve fraud, the counsellor will review the case with the director or case supervisor. This review may show the need for a more thorough investigation around the particular eligibility factor involved. It will also assist in determining whether there is basis for belief that fraud has been committed. The intent of the person to defraud is the key factor. In establishing intent, the county department will take into consideration the person's ability to comprehend and the opportunity the agency afforded him to understand his obligation and the penalty involved.

Workers will employ the usual methods of investigation in establishing intent to defraud; that is, documents and/or statements from references in a position to know the facts.

2. If the county department concludes that there is real evidence of fraud, the county department must send a careful report to the legal counsel of the State Depart-

ment. The following outline should be used as a guide in preparing a report on possible fraud:

a. Identifying information—name and address of client, type of aid received, case number, and name of worker making the report.

b. Summary of the situation

(1) Brief statement of reason the case is being reported;

(2) The date that possible fraud was discovered and the information that was withheld or misrepresented by the client;

(3) A statement as to all income/resources, including real property, of which the client is possessed;

(4) The dates the client received assistance to which he was not entitled as a result of his act, misstatement, or withholding of information.

c. Verification—date and method of verifying correct information, including names and/or location of records, persons, or other resources used in substantiating the facts.

d. Effect on client's eligibility or amount of grant and resulting action by the county department.

e. Evaluation of client's understanding of agency policies

(1) His opportunities to know agency policies;

(2) His explanation of his actions;

(3) Any mental or physical condition which would affect his ability to understand policies and to assume his responsibility for furnishing correct and complete information to the agency.

If the recipient's current eligibility is clear, the county department will continue aid while facts are under review by the State office or law-enforcement authority. If unreported income/resources are a factor, the income will be put into the budget and the resource considered in relation to the reserve policy. (See "Unreported Income/ Resources Without Established Intent to Defraud.")

C. *State Agency's Responsibility in Fraud Cases*

The State Department accepts the decision-making responsibility as to whether cases should be referred to law-enforcement officials for possible prosecution. The State Department assumes this responsibility because there is a full-time legal advisor on the State Staff, who is an assistant attorney general.

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After receiving a case which appears to involve fraud, the legal counsel, in consultation with the Bureau of Field Service, will decide upon the action to be taken. Extenuating circumstances will be taken into consideration in arriving at a decision to refer the case to law-enforcement officials. Some examples are: age, physical or mental condition, location of person (prison, for example), and opportunity to know agency policies.

As a general rule, the State Department will not prosecute if the person makes total reimbursement or as much reimbursement as he appears able to make at the present time or within the foreseeable future. The State Department deems it preferable to avoid criminal prosecution if civil procedures will accomplish the desired result. Sometimes civil and criminal action may be instituted simultaneously. For example, if a person has committed forgery, criminal prosecution will be sought for this act; at

the same time a civil suit will be filed for recovery in event the client should ever be able to repay. In a flagrant case, criminal suit may be brought for the salutary effect in the community.

If additional information is needed, the legal counsel or Bureau of Field Service will request the county department for specific information and give the reasons why it is needed. When the State office reaches a final decision, the legal counsel or Bureau of Field Service will notify the county department as follows:

1. If fraud appears to be present:

   a. The legal counsel will seek reimbursement; or

   b. The legal counsel will ask the county department to institute civil suit or criminal prosecution, or both.

2. If the case appears not to involve fraud, the legal counsel in consultation with the Bureau of Field Service will write the county department, explaining why this decision was reached and giving advice about further work with the case.

II. *Unreported Income/Resources Without Established Intent to Defraud*

When a recipient fails to report income/resources received between review periods, but there appears to be no evidence of intent to defraud, put the unreported income into the budget for the coming review period and consider the unreported resource in relation to the reserve policy. Do this even though part or all of the income/resource has been spent, unless spent for an unreported need recognized by the agency. (In AB cases, the proper amount must be disregarded before carrying any forward.)

Do not put into the budget income/resources received further back than 12 months (6 months, ADC) from the date on which the agency learns of them. If a part was still available during the past review period,

however, consider that amount as unreported income/resources. Should there be a case where a considerable amount was unreported within past years and the last erroneous check because of this was issued within the past three years, notify the legal counsel, as reimbursement may be sought.

Follow unit budgeting policies in ADC. This means all unreported income/resources of any person in the ADC budget must be considered. (If any child is removed from the budget for any reasons listed in the manual, do not put his unreported income/resources into the ADC budget.)

When a relative has claimed a recipient as an income-tax dependent without the recipient's knowledge, count as unreported income only actual contributions.

When a recipient acquires real property between the dates of his case reviews and does not report it to the agency, consider it according to policies under "Real Property" and the reserve policy.

When unreported income/resources reduce or cancel the payment, this shall ordinarily be considered as reimbursement of payment received erroneously. When a person (or family) has on hand, however, more than enough to meet his needs by agency standards for the coming budget period, the county department should write the legal counsel of the State Department about the situation. Reimbursement may be indicated.

When reimbursement is sought through court for unreported income/resources, a civil suit will be brought under Title 7, Section 24, Code of Alabama 1940, as amended. The statute of limitations under this Act is three (3) years from the date the last erroneous check was issued to the client.

III. *Administrative Errors*

When the county department or the Bureau of Accounts of the State Department finds an erroneous payment resulting from administrative error, the county department or Bureau of Accounts will submit the facts to the Bureau of Field Service. The Bureau of Field Service, in consultation with the legal counsel, will make every reasonable effort to recover the erroneous payments. This will be done in any of the following ways:

A. Asking the county department to reimburse from local funds.

B. Trying to secure reimbursement from the client either through efforts of county department or State Department. When it is known definitely that the client has resources other than his public assistance payment, reimbursement will be sought from

$84 for this same person if he needs transportation *or* laundry.

$89 for this same person if he needs both transportation *and* laundry.

5. For a person in a licensed personal care home, same as APTD. (See *Exception* under APTD.)

D. *ADC*—$35 per month for the first eligible child and $23 for each additional eligible child. No ADC money payment can be made from State and Federal Funds for more than $127 per month, irrespective of the need or number of eligible children.

E. *ADC-FFC*—$41 per month, unless the foster parent also provides allowable nursing care, in which case the maximum payment is $101.

F. *TA*—The maximum monthly payment which can be made from State funds is $12.50. Payment from State funds for any person who has State residence cannot exceed $37.50 within any one 12-month period. Payment from State funds may be available to a sick or disabled transient for one month only in any 12-month period.

II. *Minimum Payments*

No money payment can be made unless a person's check under agency rules would be as much as:

A. *OAP, APTD*—$10 per month.

B. *AB*—$1 per month.

C. *ADC, TA*—$5 per month.

Exception: A money payment may be made for less than these minimums when a vendor payment for nursing care in a licensed nursing home or cerebral palsy treatment center is also being made. In AB, no money payment for less than $1 will be made.

Basic Requirements According to Size of Family

Table 2

(Aid to Dependent Children Group)

Basic Requirements, Adjusted Totals	Monthly Expenditures by Number of Persons Included in ADC Budget[1] 1	2	3	4	Amount for each additional person above 4 in a budget
(For Column B, PSD-43)	$47.00	$ 83.00	$112.00	$142.00	$ 29.00
Items					
Food	22.20	44.40	61.25	78.10	16.85
Clothing	6.50	13.00	18.60	24.20	5.60
Medicine Chest Supplies	.40	.80	1.20	1.60	.40
Household Supplies[2]	1.85	2.55	3.65	4.40	1.00
Fuel[2]	5.00	5.80	6.50	7.20	.70
Lights[2]	.75	.75	.75	.75	.05
Water[2]	.75	.75	.75	.75	.00
Incidentals	5.00	10.00	15.00	20.00	5.00
Shelter	5.00	5.00	5.00	5.00	.00

Note: $5.00 is a minimum shelter allowance for rent or home ownership cost. If shelter cost exceeds $5.00, budget the excess on an as-charged basis up through the allowable maximum per month, which includes the minimum, for one person or one assistance household.

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[1] If a person in an ADC budget is in the school for the deaf and blind, show the appropriate needs for him, according to policies elsewhere in this chapter. Use Column 1 for his individual needs, such as clothing. While he is away from home, show the adjusted total figure which is applicable to the remaining number of persons in the budget.

[2] For each additional person over 4 in a budget, adjustments were made showing the average amount of increase for each additional person in a budget.

August, 1966

Ala. Manual, Part I III-57a

Special Needs of Applicants and Recipients

Table 3[1]

Special Needs	Monthly Maximum To Be Budgeted For Item
Room and Board	$ 59.00
Home Nursing or Attendant Service	100.00
Board in a Licensed Personal Care Home	100.00
Nursing Home Care	225.00
Skilled Nursing Home Care	275.00
Laundry (in AB only)	5.00
Transportation (in AB only)	5.00

[1] References in Part I of the Alabama Manual relating to special needs and maximums to be budgeted and paid are as follows:

1. Pages III-7-8, "Room and Board."
2. Page III-7, "Nursing or Attendant Service in a Person's Own Home."
3. Page III-8, "Board in a Licensed Personal Care Home."
4. Pages III-83-84 "Maximums Which Can Be Budgeted."
5. Pages III-84-85, "Maximum Vendor Payments and PSD Rates."
6. Page III-9, "Other Special Requirements Allowable in AB Cases Only."
7. Pages III-52-53, "Maximum Money Payments to Individuals."

Refer to page III-9 for budgeting procedures in ADC-FFC.

May 3, 1965

Ala. Manual, Part I III-67

d. *Inmate of Institution*—A person cannot receive MAA while a resident of a public institution, except as a patient in a medical institution.

e. *Not Receiving OAP*—A person cannot receive medical services under the MAA program and financial assistance under the OAP program for the same month, even if OAP is received from another state. It is possible that a person who receives medical services under the MAA program may subsequently become eligible for assistance under the OAP program. It is also possible that an OAP recipient may become ineligible and later be eligible for medical services under the MAA program.

A person 65 or older who is receiving financial assistance under the AB or TA program or is included in an ADC budget can apply and, if found eligible, will not be barred from services under the MAA program.

f. *Economic Need*—A person must be in need according to the following policies. All income/resources of the applicant and his spouse living with him must be considered jointly.

(1) *Income/Resource Limitation*—No single person can qualify for MAA if he has net income/resources (over resources exempt from consideration) in cash or readily negotiable resources of more than $1200 per year.

If husband and wife live together, neither can qualify for MAA if they have combined income/resources (above resources exempt from consideration) in cash or readily negotiable resources of more than $1800 per year.

Note: A contribution made by vendor payments for medical services is not considered income. This includes nursing care in the home.

(2) *Income/Resources Exempt from Consideration*—The following income/resources will not be

considered in determining whether a person can qualify for MAA.

(a) *Personal Belongings*—Clothing, household furnishings, an automobile, and other personal effects.

(b) *Income in Kind*—Income in kind refers to produce or commodities rather than money. Food produced for home consumption is a common form of income in kind. (Cash paid to the client or to a vendor in the client's behalf for a living requirement, such as shelter, is not income in kind. See "Note" under "Income/Resource Limitation.")

recovery, the nursing home can be paid for no more than one week (7 days). Should the recipient die before the week is over, the nursing home can be paid for only that part of the week that the recipient was alive, except that no payment can be made for the day of death of the recipient.

Within any one fiscal year, 30 days is the maximum for which a nursing home can be paid during a patient's absence for hospitalization as described above. If an OAP recipient is in the hospital for longer than his days of entitlement, neither hospital care nor nursing home care can be paid. The money payment to the recipient will remain the same; i.e., for clothing and incidentals and, in OAP *only*, health needs. Payment to the nursing home will be reinstated upon the recipient's return to the nursing home. See A. L. 2146 6-20-66.

2. *Visits*—Given below are policies relating to recipients' visits away from nursing homes:

a. If a recipient is away from the nursing home on a visit for 48 hours or less, neither he nor the nursing home needs to notify the county department of pensions and security.

b. If a recipient plans to visit away from the nursing home for longer than 48 hours, the nursing home or the recipient must notify the county department in writing as to when he leaves and how long he will stay. If the department is not notified, a vendor payment cannot be made for the days the recipient visited. Should the recipient stay a longer or shorter period of time than reported, such change must be given to the county department in writing.

PSD will pay for no more than 10 days during a fiscal year for these longer visits and then only if the nursing home retains a space for the recipient.

IV. *Medical Care for Aid to Dependent Children—Foster Family Care*

County departments and foster parents will be expected to use appropriate free medical service resources and facilities in meeting special needs of children. When a child who is receiving ADC-FFC has medical needs which cannot be met through free facilities, medical costs as set out below may be matched as ADC-FFC and paid to the respective vendor(s). (These costs follow as closely as possible those in *Manual for Administration of Child Welfare Services.*)

A. Care in a licensed hospital at a maximum per diem per child of $2.00.

"Day" will include the day the child is admitted but not the day he is discharged except on one-day admission.

Exception to Maximum—When a child is acutely ill or injured and hospital care cannot be secured for $2.00 a day, the additional cost can be paid up to the established per diem cost or the average per diem billing rate, whichever is less. The rate which the Department of Pensions and Security can pay for the period of hospitalization can be based on the per diem rate in effect on the day of discharge, even though no payment may be made for that day. The hospital requesting payment should use the same rates used in billing for hospitalization of old age pensioners. The State Department has a copy of these rates.

B. Services of a legally licensed physician at a maximum of:

Each office visit	$ 3.00
Each home visit	$ 3.00
Dentist's Services	
Cleaning teeth	$ 3.00
Each treatment of gums	$ 2.00
Each extraction of a temporary tooth	$ 2.00
Each extraction of a permanent tooth	$ 3.00
Each permanent filling	$ 3.00

C. Services of a registered nurse or a licensed practical nurse for nursing care of an ill or disabled child during any month $60.00

When payment from State and Federal funds is to be requested for medical care, "Remarks" on the budget must show for what items and to whom payment is to be made.

Claims for reimbursement of allowable medical services from State and Federal funds must be itemized, certified, and notarized. The original invoice approved for payment

by the county director must be submitted to the State Department by the end of the month with a covering letter requesting payment under ADC-FFC. The duplicate copy of the invoice will be filed in the county department.

Chapter Four

Financial and Statistical Procedures

Financial and statistical data are essential for administrative controls and social planning. It is necessary, therefore, for county departments to follow uniform procedures in computing, preparing, recording, and reporting such data. Detailed instructions for forms and reports discussed in this chapter are in Part II of the manual. (See Section XI in Chapter Three of this manual and Part II of the manual for policies and forms relating to the medical care programs.)

Section I

Financial Procedures

Accrual Rights of Applicants and Recipients to Money Payments

Applicants—An applicant's right to a money payment accrues on the date on which the county director signs the award authorization. That is, provided the applicant was alive and eligible insofar as was known on that date. If a payment is authorized in one month for the following month, the approved applicant's right to payment accrues as of the first day of the following month, provided he was alive and eligible insofar as was known on that date.

Recipients—A recipient's right to a money payment accrues on the first day of each month (12:01 A. M.), provided he is alive on that date and eligible insofar as is known. If his needs increase after the first day of the month, his payment for the month may be increased; however, to receive Federal matching in case of payments after death, the county department must establish that the recipient was alive on the date that the increase was authorized. The amount he is entitled to receive on the first day of the month cannot be decreased for that month because of later changes in circumstances or cancelled because of ineligibility which occurs after the first day of the month. This is because his right to a payment accrued as of the first day of the month and he is entitled to receive his payment based on his need at that time. The payment, however, must be decreased or cancelled the following month. The county department may learn before a check is mailed that a person's needs were less or he was ineligible on the first day of the month. In that case, his payment should be decreased or cancelled during the current month, as the facts warrant.

Note: In ADC accrual rights relate to an eligible child(ren) and not to the grantee relative or other person in the budget.

director of the county department, who will approve and transmit both copies to the State Department to the attention of the Bureau of Accounts. Each invoice must be itemized to show the period covered. It must also show the name of the county department. Utility bills include only:

a. Telephone charges—The invoice must show phone number.

b. Telegraph charges—The invoice must show the office to which payable.

c. Heat, lights, water, and power.

d. When additional telephone service is needed, obtain approval of the work from the Business Manager.

14. *Insurance Coverage on Equipment*

All equipment located in the county departments must be insured. In a few counties the county governing bodies provide this insurance under a blanket policy covering all county offices. In every other county, the county department must request insurance coverage through the State Department of Pensions and Security, which will secure the insurance under a blanket policy through the State Department of Insurance. Each year the State Department of Pensions and Security will notify each county department about the amount of insurance coverage.

15. *Payment of Medical Bills*

All doctor bills covering examinations for APTD, AB, ADC, ADC-FFC, and TA are payable by the State Department of Pensions and Security, subject to the regulations indicated below.

Each county director should secure one bill in duplicate each month from each doctor covering all examinations for APTD, AB, ADC, ADC-FFC, and TA. Each bill must be itemized properly, showing the client's name and date of examination and must be signed by the doctor and notarized. The director will insert the case number and category beside each client's name and approve the bill for payment.

On the fifteenth of each month, the director must prepare in duplicate Form PSD-96, Revised, "Requi-

sition for Medical Examinations," and mail to the State Department, to the attention of the Bureau of Accounts, the original together with the original copy of the bill from each doctor. When the fifteenth comes on Saturday or Sunday, the form must be mailed on the last work day before the fifteenth. (Even if a county has no medical bills, a form must be mailed, stating thereon "None".) In preparing PSD-96, Revised, insert the name of the doctor and his correct mailing address. Show the total amount payable to each doctor under the "Total" column and segregate the amounts payable for each category in the proper space.

Administrative
Letter No. 2157

July 8, 1966

State of Alabama

Department of Pensions and Security
Montgomery

To: County Directors of Pensions and Security

Subject: Payment of Additional Medical Fees—Effective Immediately

I am pleased that it is now possible to pay as an administrative expense a fee of up to $5 for medical examinations needed as follows:

1. To determine the need for nursing care in one's own home or in a licensed nursing home. Use PSD-144 for nursing care in one's own home and PSD-114 for care in a licensed nursing home.

2. To determine the need for a legal guardian or legal representative. No form has been developed

for use in cases involving legal guardianship. Use PSD-154 in determining the need for a legal representative.

3. To determine incapacity in ADC, when adequate plans can be made for child care but a mother claims inability to work due to a physical or mental condition that is not obvious. Ordinarily expect the mother to provide the needed medical data. If she is unable to do so, however, and medical data is essential to the establishment of initial or continuing eligibility, authorize payment for having PSD-79 completed.

Please exercise care in limiting authorization for payment of these fees to cases in which the needed medical information is not available otherwise. Payments to establish an ADC mother's incapacity to work should be held to an absolute minimum. Payment for a second examination cannot be made unless there has been an obvious change in the person's physical and/or mental condition and appropriate action cannot be taken without current medical information. For nursing home cases in OAP, a second examination should not be necessary because current medical data will always be available from the physician making the quarterly visit paid for under this agency's medical care program.

In submitting bills for physicians' fees for payment, follow the procedure under "Payment of Medical Bills" on pages IV-30 and 31 of Part I of the Manual.

Cordially yours,

/s/ RUBEN K. KING
RUBEN K. KING
Commissioner

Section III

Confidential Nature of Records of the Department of Pensions and Security

Title 49, Section 17 (7) Code of Alabama 1940, as amended, reads as follows:

> "... it shall be the duty and responsibility of the state department to: ... (8) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state and county departments. The use of such records, papers, files, and communications by any other agency or department of government shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. All case records of recipients of assistance shall be considered confidential and not public writings and shall not be subject to public use or inspection ..."

Confine the use of records and lists of public aid recipients to purposes directly related to the administration of public aid. Give summaries based on pertinent factual information known to the agency only to accredited social agencies or to departments of government directly concerned with the determination of dependency or to authorized persons who have a legitimate interest. Protect from public disclosure communications of an intimate and personal character, made in confidence to any of the employees or representatives of the department of pensions and security. Case records may be reviewed in the office of the county department by representatives of other recognized social agencies if the county director thinks

such review serves the client's best interest. Before initiating a referral to agencies other than departments of pensions and security or before releasing information to such agencies, secure the client's consent, preferably in writing.

Place all case records and other records of a confidential nature in locked files each night. Grant permission to take them out of the office only under exceptional circumstances on specific order of the county director. In such circumstances, the file clerk should keep a signed memorandum, showing where the records are.

Title 49, Section 17 (7) Code of Alabama 1940, as amended, further provides in subsection (8) the following in connection with investigations by grand juries:

1. That the county director, upon request, shall submit to the grand jury a list of persons receiving public aid in the county or division of the county covered by the circuit court.

2. That the grand jury may examine the lists of recipients within the county and make such investigations as may be necessary to verify the accuracy of the lists.

3. That the duty is imposed upon the presiding judge of the court to charge the grand jury that it may make such investigation.

4. That grand juries are responsible for the maintenance of the same safeguards with respect to the confidential nature of records as the State and county departments of pensions and security.

5. That confidential information concerning applicants or recipients shall not be disclosed for any

purposes not directly connected with the administration of public aid or investigations thereof by grand juries.

While the nature and extent of the investigation will determine the amount of information needed by grand juries, a list of recipients or a copy of the payroll usually will provide sufficient information for an investigation. Since the material submitted to grand juries will be official records of the county department, it must be returned when the investigation of the grand jury has been completed. When material is released to the grand jury a receipt must be secured and when the material is returned to the county department by the grand jury, a receipt must be given the grand jury.

The county department must advise the State Department of any request for information by grand juries.

Title 49, Sections 17 (32), 17 (33) and 17 (34), Code of Alabama 1940, as amended by Act No. 293, Acts of Alabama 1961 Special Session, contain provisions relating to: (1) information to be released concerning recipients of public aid; (2) restrictions on the use that can be made of this material, and (3) penalties for violation of the provisions of the law. Given below are certain provisions of these sections of the law.

On or before the 30th day of each January, April, July and October, the county board of pensions and security of each county must file, or cause to be filed with the Probate Judge, a complete report showing the names of all recipients of public aid in the county, together with the amounts paid to each during the preceding month.

These reports filed with the Probate Judge must be securely bound by him in a separate record book provided for that purpose. This record book shall be open to inspection at all times during the regular office hours of the

Probate Judge. *Records pertaining to adoptions or pertaining to children heretofore or hereafter placed in foster homes for adoption or any other purpose shall not be filed in the record book.*

The law further provides that it shall be unlawful for any person, firm, or corporation to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists or names for commercial or political purposes of any nature, for publication in any newspaper, magazine or other periodical, or otherwise, or for any purpose not directly connected with the administration of public aid.

Any person, firm, or corporation who willfully or knowingly violates any provision of the act shall be guilty of misdemeanor and upon conviction shall be punished by a fine of not less than $25, nor more than $1,000, and may also be imprisoned in the county jail for not more than 60 days.

In keeping with the Federal law and the authority vested in the State law, the State Department will send to the county departments a payroll for the last month of each quarter, setting forth:

1. Names of public aid recipients;
2. Amounts paid to recipients.

Upon receipt of this information, the county department will send one copy immediately to the Probate Judge, together with a letter of transmittal. The letter should state briefly what information is enclosed and refer to the appropriate law. (See Administrative Letter No. 1522.) County departments have discharged their obligation when the above information is transmitted to the

Probate Judge. No other information is to be released and the confidentiality of records is to be maintained in accordance with other policies in this chapter.

Every applicant must be told that the filing of his name in the Probate Office is a condition to the receipt of aid. If he objects to having this information in the record book of the Probate Judge, he may withdraw his application or the agency will have to reject it. If a recipient objects to this procedure, his case must be closed.

Section IV

Fraudulent Activities

Any person who has facts to show that an applicant/recipient is not entitled to aid or that someone is trying to get aid for another by fraud should notify the county or State Department.

Throughout the county, there have developed methods of securing funds fraudulently from the government and from applicants for and recipients of public aid. County workers must be constantly on the watch for such acts and not unwittingly give information available in the county department to persons who may use it in the wrong way.

July 1, 1965

Summary of Defined Services in ADC

For your convenience in recording defined service interviews on Day Sheets, we are giving below defined problem areas and listing the defined services for which we will claim 75% Federal participation. The Department of Health, Education, and Welfare has designated these as "prescribed" services. In our manual, we have referred to them as "defined" services. Those that are starred are

the required, defined services which must be given Statewide and for which you must observe a caseload standard, a standard of visits, etc.

Unmarried Parents and Their Children With Specified Problems

1. The need for prenatal, confinement, and postnatal medical care for the mother and child.

*2. Planning for the future of the mother and child.

*3. Child care and training if child remains with the mother or planning in respect to placement elsewhere.

4. Environmental conditions seriously contributing to illegitimacy.

*5. Legal problems affecting the rights of the mother and child, such as legitimation of the child.

*6. Use of available specialized agency and community resources in respect to serious problems or needs; for example, the unmarried mother with her first child.

Families Disrupted by Desertion or Impending Desertion

1. Maintaining ties or effecting reconciliation with the deserting parent, when indicated.

*2. Securing support from the absent parent.

*3. Helping with problems in recent desertions.

*4. Helping with the dual responsibilities of remaining parent.

5. Helping with serious problems of children resulting from loss of the parent.

6. Trying to lessen stresses which are conducive to desertion.

*7. Using available specialized agency and community resources in respect to serious problems, such as marital conflicts of young couples, repeated desertions, adjustments of newly reconciled parents, children's behaviour problems or overburdening resulting from loss of the parent, and emotional disturbance of the remaining parent.

Families With Adults With Potentials for Self-Support

*1. Evaluating potentials for self-support.

*2. Securing assessment of employment skills and opportunities.

3. Securing necessary medical services.

4. Securing training opportunities.

5. Securing and maintaining appropriate employment through existing agencies.

*6. Assisting in assuring appropriate child care when mothers work.

*7. Assisting in relieving multi-burdens resulting from employment.

Children in Need of Protection

*1. Counselling on management of financial resources.

*2. Securing and helping parents and children to use available community resources.

3. Arranging substitute care as needed for children who are seriously neglected and endangered by lack of parental care until such time that the home conditions are improved. (See *"Aid to Dependent Children —Foster Family Care"* in Chapter Two, *Alabama Manual,* Part I.)

*4. Using available specialized agency and community resources in respect to serious problems or needs; for example, psychotic or disturbed parents; training of mothers in homemaking and care of children; placement of children; and individual children damaged by neglect or rejection.

Children With Special Problems, Such as Health, Education, and Employment

*1. Securing and using medical resources, including clinical, psychological and psychiatric services.

2. Securing and assisting in working out plans for day care of children as appropriate.

*3. Securing and assisting in use of educational opportunities.

*4. Assisting older teenagers in evaluating their interest and potentials for self-support and in preparing for and obtaining self-support.

Note: Seventy-five per cent Federal participation can also be claimed on: (1) services to children in foster care under ADC; (2) initial social studies in ADC to the point of determining whether or not defined problems exist and on updating ADC social studies in which defined services *are being given* at the same time information is being gathered for updating the social study; (3) any other service if the service is reasonably related to a defined problem area; (4) intake service in ADC as listed in the Social Service Section of Chapter Five.

Section II

Hearings

Titles I, IV, X, and XIV of the Social Security Act provide for fair hearings for applicants and recipients of aid provided for in these respective titles. Alabama law provides for fair hearings to applicants/recipients of public assistance. By State policy, the same fair hearing procedure applies to TA.

At the time of application and at the time of any agency action affecting an applicant's or recipient's claim to aid, give him a written statement of the right to a hearing and the method by which a hearing may be obtained. For this purpose, enclose a copy of the appropriate eligibility statement with each award authorization, change of status affecting the payment, termination of award (except closure due to death) and denial of aid mailed to an applicant or recipient.

Keep a copy of the rules and regulations on hearings posted in the county department in a convenient place for everyone to see.

I. *Organization and Conduct of Hearings*

A. *The Committee on Hearings*—The Committee on Hearings of the State Department is composed of the following:

1. The assistant director of the Bureau of Public Assistance, Chairman;

2. The assistant director of the Bureau of Field Service;

3. A field representative from a district other than the one in which the request for a hearing is made, or the legal advisor, or the hearing officer, or other State staff member with social work background and with administrative or supervisory experience.

The Committee acts for the State Department in planning and conducting hearings. It makes its recommendations in writing to the Commissioner, who has responsibility for the final decision on each hearing. (In APTD, and in ADC cases where the degree of disability is the basis for the appeal, the State Review Team will assist the Committee on Hearings in making recommendations to the Commissioner on the eligibility factor of disability.)

The chairman of the Committee on Hearings is responsible for handling hearing procedures, including correspondence and clearance with field representatives, county departments, and claimants and persons who represent them.

B. *The Hearing Officer*—Any member of the Committee who has not taken part in the action under consideration may serve as hearing officer and conduct the hearing. If a member has taken part in the action by assisting the county department in the review or making some independent investigation, that member may attend the hearing but can neither conduct it nor participate in the final recommendations.

The hearing officer has full control over a hearing, although other State staff members may be present. The duties of the hearing officer are as follows:

1. To direct the hearing;

2. To explain the conduct of the hearing, the type record which will be made of it, the claimant's right

to review it in the county office at any reasonable time, and the manner in which the decision will be made and given to the claimant;

3. To hear testimony;

4. To examine witnesses and otherwise receive evidence having a direct bearing on the point or points at issue; and

5. To exclude from the hearing material unrelated to the point(s) at issue.

Questions directed to the hearing officer must be limited to those concerned with the explanation of the hearing procedure.

The role of the hearing officer is that of an impartial tribunal, and in examining witnesses and in the general conduct of the hearing, he must maintain an attitude of impartiality. The only objective in examining witnesses shall be to attempt to arrive at the truth concerning the issues involved.

The hearing officer may call and examine witnesses on his own, but he must then give the claimant or the person who represents him an opportunity to cross-examine these witnesses. The hearing officer may also cross-examine witnesses introduced by the claimant.

C. *The Claimant*—There is only one party to a hearing —the claimant himself. He is not opposed at the hearing by either the State or county department. He must be present at the hearing unless the Commissioner or Committee on Hearings excuses him for a specific reason. He may present his case himself at the hearing or may be represented by one of the following persons:

1. His duly appointed legal guardian or legal representative;

2. The grantee relative in ADC;

3. The responsible parent, brother, or sister of a mentally handicapped minor under age 21;

4. A lawyer of his choice, legally licensed to practice law in Alabama; or

5. A relative or friend designated by him. (This refers to a relative or friend who is not also one of the persons listed above.)

The persons listed in "1" through "4" (but not in "5") may act for the claimant in all matters pertaining to the hearing, including notifying the agency of the decision to appeal or to withdraw a request for a hearing. Persons listed in "5" may present the case in the claimant's behalf at the hearing.

D. *Witness*—The claimant may have members of his family and other persons present at the hearing who may serve as witnesses. Staff or board members of either department may attend and may also serve as witnesses. The hearing officer, however, will consider a person qualified to be a witness only when the person has factual knowledge about the point(s) at issue.

E. *The Hearing*—In general, the hearing consists of the following procedures:

1. *Statement of Issue*—The hearing officer will state the issue(s) as set forth in the claimant's appeal. When the request for a hearing is based on a decision as to eligibility, the hearing officer will make a statement for the record of the hearing with respect to points of eligibility which have previously been satisfactorily established. The hearing officer will then define the issue(s) under consideration in the hearing. The claimant or the person who represents him will be asked whether he accepts the statement of

the issue(s). If not, the claimant or the person who represents him may correct or modify the statement. The issue(s), however, must have a bearing upon the claimant's eligibility or amount of payment.

2. *Period of Testimony*—The hearing officer will hear testimony about the defined issue(s) from the claimant, the person representing him, and qualified witnesses. All persons giving testimony must confine their remarks to factual information about the issue(s) relating to the establishment of eligibility or payment in the particular case. The hearing officer, the claimant, or the person representing him may direct questions to witnesses, as indicated, provided the questions relate to the defined issues. Written statements of evidence from all sources and other exhibits may also be presented and examined.

During the period of testimony, the hearing officer will not hear complaints or arguments about Federal and State laws or policies.

3. *Period of Arguments*—The hearing officer will allow a reasonable time (usually not more than 30 minutes) for the claimant or the person representing him to summarize their factual data and to present any arguments and complaints they wish about the point(s) under consideration in the particular case. This may include refuting oral or written testimony.

4. *Conclusion of Hearing*—The hearing officer will close the hearing when satisfied that all available facts relating to the issues involved in the hearing have been given.

II. *Rules and Regulations*

A. *Procedures to Be Followed by Applicants/Recipients in Requesting a Hearing*

1. Each person requesting review of his case has free choice of whether such review shall be handled through informal complaint and adjustment procedures or through a hearing. If he chooses a hearing, it cannot be delayed or cancelled without his consent because of a review by the local office.

2. Any person dissatisfied with the county department's action or failure to act on his claim to aid has a right to request a hearing. He may do so when:

a. His application is denied or is not acted upon within one month.

b. His check is discontinued.

c. He is dissatisfied with the amount of payment.

d. He is otherwise dissatisfied in regard to his claim to aid.

A request for a hearing based on action by the county department must be filed within 90 days of the action questioned.

3. A request for a hearing should be filed in writing with the county department or the State Department. It should give the reason(s) for dissatisfaction, the date on which the cause of dissatisfaction occurred and the claimant's correct mailing address.

The request for a hearing may be signed by: (a) the applicant/recipient; (b) his duly appointed legal representative or legal guardian; (c) a grantee relative in ADC; (d) a parent, brother, or sister of a mentally handicapped minor under age 21; (e) legal counsel of his choice, legally licensed to practice law

in Alabama; or (f) a relative or friend designated by him to act in his behalf.

If the request is filed by a person other than those designated in "a" through "e", confirmation by the applicant or recipient in writing that it is his desire to appeal must be given to the county department or the State Department. The office receiving the request must notify the other within five days.

4. Within five days after the State Department receives (from the claimant or the county department) the written request for a hearing, the State Department sends the claimant in writing the following information:

a. The procedure at the hearing;

b. The claimant's option to present his case or be represented by legal counsel of his choice, legally licensed to practice law in Alabama, or any other authorized person;

c. The claimant's right to present written evidence and testimony and to bring to the hearing members of his family and other persons;

d. The fact that the hearing will be held at a place convenient to him, either in the State office or elsewhere and that he will be notified in advance of the time, date, and place.

The claimant will be advised of possible further investigation by the county department. A copy of this information will also be sent to the county department.

B. *Procedures to Be Followed by DSD After Receipt of a Request for a Hearing*

1. The chairman of the Committee on Hearings refers the request for a hearing to the field repre-

sentative or another member of the State staff. Within 20 days after the request is received, this staff member will review the case with the county department and will make or ask the county director to make any further investigation necessary. The claimant will also be requested by either the State or county department to furnish necessary information which he can readily secure.

2. If the total findings in the case show that the county department should take further action, such action must be taken at once. When the original reason for the hearing has been removed by action taken by the county department, the State Department will write the claimant a letter, stating this to be the case and asking if he wishes to withdraw his request for a hearing. This shall not prohibit his continuing with the hearing, if he so desires. Any decision to withdraw must be his own. The withdrawal must be in writing and should state the reason for withdrawal. A letter of withdrawal by the claimant, a duly

appointed legal representative or legal guardian, legal counsel of his choice, legally licensed to practice law in Alabama, the grantee relative in ADC, or the responsible parent, brother, or sister of a mentally handicapped minor under age 21 will be accepted. It may be sent or given to either the State or county department. The one getting it will notify the other within five days. The county department will send a brief written report to the State Department on each withdrawal providing information as to the circumstances leading to the withdrawal by the claimant.

3. When no satisfactory adjustment is made, the county department shall submit a brief report on the

case to the chairman of the Committee on Hearings within 30 days after the request for a hearing is received in the State Department. It shall include only factual data relating directly to the issue under review. In addition, the State staff member who reviewed the case shall submit a written report, together with recommendations. These reports shall become a part of the written testimony at the hearing.

4. Upon receipt of the necessary information, the chairman of the Committee on Hearings sets a date, time, and place for the hearing. This date shall be within 20 days after such information is secured unless more time is needed for a reasonable cause. A written notice shall be sent by the State Department to the claimant, the county department, and the field representative at least 10 days before the hearing. The county director will advise the chairman of the county Board of the date, time, and place of the hearing.

5. A request for a hearing will be considered abandoned if:

a. Neither the claimant nor the person who represents him appears at the time and place designated for the hearing. However, the claimant must appear unless excused by the Commissioner or Committee on Hearings for a specific reason if the person who represents him is other than his legal guardian or legal representative, the responsible parent, brother, or sister of a mentally handicapped minor under age 21, or the grantee relative in ADC; or

b. A time and place for a hearing has been set but the claimant asks for a delay and does not wish to set another date; and

c. Within 30 days after the mailing of an inquiry as to whether he wishes any further action taken on his request for a hearing, no reply is received by either the local or State agency.

6. If the hearing is conducted and if it becomes evident during the hearing that the issue actually involved is different from the

one on which it was requested, the hearing, at the discretion of the hearing officer, shall be conducted on the new issue. All evidence constituting the basis for decision must be presented at the hearing or at a continuation thereof.

7. The hearing may be adjourned from day to day or to a designated date, at the discretion of the hearing officer, when reasonably necessary to give full opportunity to obtain and present all evidence concerning the points at issue in the particular case. The hearing may be concluded when the hearing officer is satisfied that all pertinent information bearing upon the issue(s) has been introduced and examined.

8. The hearing officer shall decide on the type record to be made of the hearing. It may be: (a) a complete, verbatim transcription from shorthand notes; or (b) a verbatim machine recording; or (c) a summary report containing the main facts, including the oral and written testimony, questions, and rebuttal. The type record chosen shall become a part of the complete record. The claimant shall be told of his right to review the record of the hearing at any reasonable time. If he does not wish to review the record, it will not be necessary to transcribe machine recordings, but these recordings will be available to the Committee on Hearings and the Commissioner

and will be retained as a permanent part of the files in the State Department. If the record is made of the hearing other than by machine recording or if the claimant does state his desire to review the record, the procedure in the paragraph below will be used.

If a machine recording is used, either the State or county department will have it transcribed in triplicate. If a verbatim transcription is made from shorthand notes, the county department shall have this typed up in triplicate immediately following the hearing. Any record typed by the county department shall be forwarded in triplicate at once to the hearing officer in the State Department for review and editing. The hearing officer shall return one copy of the edited record to the county department to become a part of its permanent files. This copy will be made available for inspection by the claimant or the person who represents him at any reasonable time. The remaining copies will be submitted to the Committee on Hearings for review. If it is decided that additional facts are needed, the Committee on Hearings will have the hearing re-opened in order to secure them.

9. The Committee on Hearings will make recommendations to the Commissioner as soon as possible after the close of the hearing. The Commissioner makes the final decision based only on the oral and written evidence, testimony, and exhibits introduced at the hearing. Not more than three weeks shall elapse between the close of the hearing and the final decision. The decision must be in writing, signed by

the Commissioner, and shall set forth the issue(s), the principal and relevant facts brought out at the

hearing, the pertinent provisions in law and agency policy, and the reasoning that led to the decision. Copies of the decision shall be sent to the claimant and to the county department immediately following the action of the Commissioner. The decision shall be final and shall be binding upon the claimant and the county department.

10. Upon receiving a copy of the decision, the county department shall take immediate steps to see that any necessary action is taken. If the decision requires action by the county department, the county director shall send a written report to the Commissioner stating what has been done. Continuing supervisory responsibility is delegated to the field representative.

11. A decision on a fair hearing is binding on the county department and is not invalidated by county action so long as the conditions under which the decision was made remain the same. However, this does not preclude the county department from modifying the award or making other changes to meet changed conditions in the claimant's situation, in law, or in policy.

12. When new evidence indicates that a valid decision has not been made, the Committee on Hearings has the authority to decide to reopen a case for rehearing, either through its own motion or upon request of the claimant.

Section III

Confidential Nature of Records of the Department of Pensions and Security

I. *Basic Provisions for Maintaining Confidentiality of Records*

A. *Legal Provisions*—Title 49, Section 17(7) Code of Alabama 1940, as amended, reads as follows:

> ". . . it shall be the duty and responsibility of the state department to: . . . (8) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files, and communications of the state and county departments. The use of such records, papers, files, and communications by any other agency or department of government shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. All case records of recipients of assistance shall be considered confidential and not public writings and shall not be subject to public use or inspection . . ."

B. *Implementation of Legal Provisions*—Confine the use of records and lists of public aid recipients to purposes directly related to the administration of public aid. Give summaries based on pertinent factual information known to the agency only to accredited social agencies or to departments of government directly concerned with the determination of dependency or to authorized persons who have a legitimate interest. Protect from public disclosure communications of an intimate and personal character, made in confidence to any of the employees or representatives of the department of pensions and security. Case records may be reviewed in the office of the county depart-

ment by representatives of other recognized social agencies if the county director thinks such review serves the client's best interest. Before initiating a referral to agencies other than departments of pensions and security or before releasing information to such agencies, secure the client's consent, preferably in writing.

Place all case records and other records of a confidential nature in locked files each night. Grant permission to take them out of the office only under exceptional circumstances on specific order of the county director. In such circumstances, have the file clerk keep a signed memorandum, showing where the records are.

II. *Information Requested by Grand Juries*

A. *Legal Provisions*—Title 49, Section 17(7) Code of Alabama 1940, as amended, further provides in subsection (8) the following in connection with investigations by grand juries:

1. That the county director, upon request, shall submit to the grand jury a list of persons receiving public aid in the county or division of the county covered by the circuit court.

2. That the grand jury may examine the lists of recipients within the county and make such investigations as may be necessary to verify the accuracy of the lists.

3. That the duty is imposed upon the presiding judge of the court to charge the grand jury that it may make such investigation.

4. That grand juries are responsible for the maintenance of the same safeguards with respect to the confidential nature of records as the State and county departments of pensions and security.

5. That confidential information concerning applicants or recipients shall not be disclosed for any purposes not directly connected with the administration of public aid or investigations thereof by grand juries.

B. *Implementation of Legal Provisions*—While the nature and extent of the investigation will determine the amount of information needed by grand juries, a list of recipients or a copy of the payroll usually will provide sufficient information for an investigation. Since the material submitted to grand juries will be official records of the county department, it must be returned when the investigation of the grand jury has been completed. When material is released to the grand jury, secure a receipt. When the material is returned, give a receipt to the grand jury.

Always advise the State Department of any request for information by grand juries.

III. *Quarterly Filing of Recipients' Names and Grants with the Probate Judge*

A. *Legal Provisions*—Title 49, Sections 17 (32), 17 (33), and 17 (34), Code of Alabama 1940, as amended by Act No. 293, Acts of Alabama 1961 Special Session, contain provisions relating to: (1) information to be released concerning recipients of public aid; (2) restrictions on the use that can be made of this material; and (3) penalties for violation of the provisions of the law. Given below are certain provisions of these sections of the law.

On or before the 30th day of each January, April, July, and October, the county board of pensions and security of each county must file, or cause to be filed with the Probate Judge, a complete report showing the names of all

recipients of public aid in the county, together with the amounts paid to each during the preceding month.

These reports filed with the Probate Judge must be securely bound by him in a separate record book provided for that purpose. This record book shall be open to inspection at all times during the regular office hours of the Probate Judge. *Records pertaining to adoptions or pertaining to children heretofore or hereafter placed in foster homes for adoption or any other purpose shall not be filed in the record book.*

The law further provides that it shall be unlawful for any person, firm, or corporation to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of, any lists or names for commercial or political purposes of any nature, for publication in any newspaper, magazine or other periodical, or otherwise, or for any purpose not directly connected with the administration of public aid.

Any person, firm, or corporation who willfully or knowingly violates any provision of the act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $25, nor more than $1,000, and may also be imprisoned in the county jail for not more than 60 days.

B. *Implementation of Legal Provision*—In keeping with the Federal law and the authority vested in the State law, the State Department will send to the county departments a payroll for the last month of each quarter, setting forth:

1. Names of public aid recipients.
2. Amounts paid to recipients.

Upon receipt of this information, the county department will send one copy immediately to the Probate Judge, together with a letter of transmittal. In the letter, state briefly what information is enclosed and refer to the appropriate law. (See Administrative Letter No. 1522.) County departments have discharged their obligation when the above information is transmitted to the Probate Judge. Release no other information and maintain the confidentiality of records in accordance with other policies in this chapter.

Tell every applicant his name will be filed in the Probate Office as a condition to the receipt of aid. If he objects, he may withdraw his application or it will be rejected. If a recipient objects to this procedure, close his case.

Section IV

Fraudulent Activities

Any person who has facts to show that an applicant/recipient is not entitled to aid or that someone is trying to get aid for another by fraud should notify the county or State Department.

Throughout the country, there have developed methods of securing funds fraudulently from the government and from applicants for and recipients of public aid. Watch for such acts and be careful not to give information available in the county department to persons who may use it in the wrong way.

When a county worker finds evidence of fraud or suspects action contrary to the spirit and purpose of the State and Federal laws governing public aid, follow the procedure given below:

I. *Persons Posing as Federal Agents*

If an individual is posing as a Federal agent, notify the State Department immediately. The State Department will advise the Federal Bureau of Investigation.

II. *Persons Posing as Agents of State or Local Organizations*

If an individual is posing as an agent of a state or local organization, notify the sheriff, the District Attorney, the county board of pensions and security, and the State Department at once. The sheriff can get in touch with the Highway Patrol or any other State agency which should be notified. The State Department usually will not communicate with such State agency in these situations. Neither will the State Department notify the Federal Bureau of Investigation because that agency has no jurisdiction over State and local cases.

SUPREME COURT OF

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
DEC 26 1967
JOHN F. DAVIS, CLERK

OCTOBER TERM, 1967

NO. 949

RUBEN K. KING, COMMISSIONER OF THE STATE DEPARTMENT OF PENSIONS AND SECURITY, STATE OF ALABAMA; LURLEEN BURNS WALLACE, CHAIRMAN, STATE BOARD OF PENSIONS AND SECURITY, STATE OF ALABAMA; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, MEMBERS OF THE STATE BOARD OF PENSIONS AND SECURITY, STATE OF ALABAMA; MRS. CLINTON S. WILKINSON, SR., DIRECTOR, DALLAS COUNTY DEPARTMENT OF PENSIONS AND SECURITY, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES

Appellants,

v.

MRS. SYLVESTER SMITH, INDIVIDUALLY AND ON BEHALF OF HER MINOR CHILDREN, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH AND WILLIE JAMES SMITH AND ON BEHALF OF ALL OTHER MOTHERS OF NEEDY, DEPENDENT CHILDREN SIMILARLY SITUATED

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

JURISDICTIONAL STATEMENT

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

NO.....

RUBEN K. KING, COMMISSIONER OF THE STATE DEPARTMENT OF PENSIONS AND SECURITY, STATE OF ALABAMA; LURLEEN BURNS WALLACE, CHAIRMAN, STATE BOARD OF PENSIONS AND SECURITY, STATE OF ALABAMA; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, MEMBERS OF THE STATE BOARD BOARD OF PENSIONS AND SECURITY, STATE OF ALABAMA; MRS. CLINTON S. WILKINSON, SR., DIRECTOR, DALLAS COUNTY DEPARTMENT OF PENSIONS AND SECURITY, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES

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Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

JURISDICTIONAL STATEMENT

Appellants submit this statement pursuant to Rule 15 of the Rules of the Supreme Court to demonstrate that this Court has jurisdiction to consider the appeal,

and that substantial federal questions are involved therein.

(a)

REFERENCE TO OPINION BELOW

The opinion of the District Court for the Middle District of Alabama, Northern Division, is not yet reported. Copies of the opinion and decree of said Court entered in the cause are attached hereto as Appendix A.

(b)

GROUNDS OF JURISDICTION

(i) The nature of the proceeding and the statute pursuant to which it is brought:

The Order of the Court below, appealed from, dated November 8, 1967, was by a three-Judge Court constituted pursuant to Title 28, United States Code, Sections 2281 and 2284, for the purpose of hearing this cause in the United States District Court for the Middle District of Alabama, Northern Division, composed of United States Circuit Judge John C. Godbold and United States District Judges Frank M. Johnson, Jr., and Virgil Pittman. This appeal is taken pursuant to Title 28, United States Code, Section 1253. Said Court was constituted, in accordance with the provisions of the statutes of the United States, by Order granted on the 13th day of December 1966, a copy of which is attached hereto as Appendix B.

This is a proceeding whereby Appellees sought to enjoin certain state and county officials from enforcing the "substitute parent" regulation promulgated by the Department of Pensions and Security of the State of Alabama in its Aid to Dependent Children program (hereinafter referred to as ADC). Appellees sought to

have the regulation declared unconstitutional, to have its further use enjoined, and to require Appellants to reinstate upon the public welfare rolls of Alabama persons denied aid under the "substitute parent" regulation. The Court below granted the relief sought by Appellees. The District Court by Order dated and entered on the 4th day of January, 1967, appointed and designated the United States as *amicus curiae* and as party, a copy of which Order is attached hereto as Appendix C.

(ii) Opinion and Decree Below and Notice of Appeal:

The date of the Opinion and Decree sought to be reviewed is November 8, 1967, which is also the time of its entry. There is no Order on Rehearing, none having been requested. The Notice of Appeal was filed on November 20, 1967, in the United States District Court for the Middle District of Alabama, Northern Division. The Opinion and Decree of the Court are attached hereto as Appendix A.

(iii) The statutory provisions believed to confer on this Court jurisdiction of the appeal:

Title 28, United States Code, Section 1253, authorizes appeals directly to this Court from injunctive orders of a three-Judge District Court. Title 28, United States Code, Sections 2281 and 2284, prescribe the jurisdiction of three-Judge Courts.

(iv) Cases believed to sustain the jurisdiction:

This is a direct appeal from the judgment of a three-Judge District Court granting, after notice and hearing, a permanent injunction in a civil action required by Title 28, United States Code, Section 2281, to be heard by a three-Judge Court. This Court has jurisdiction to consider this appeal. *Radio Corp. of America* v. *United States* (D.C. Ill., 1950), 95 F.Supp. 660, aff'd.

341 U.S. 412, 71 S. Ct. 806, 95 L.Ed. 1062; *Palmetto Fire Ins. Co.* v. *Conn* (Conn. 1926), 272 U.S. 295, 71 L.Ed. 243; *Zemel* v. *Rusk* (Conn. 1965), 85 S. Ct. 1271, 381 U.S. 1, 14 L.Ed. 2d 179, rehearing denied 86 S. Ct. 17, 382 U.S. 873, 15 L.Ed. 2d 114.

(v) The validity of a statute is not directly involved in this appeal. The "substitute parent" regulation, promulgated by the Alabama Department of Pensions and Security, is attached hereto as Appendix D.

(c)

QUESTIONS PRESENTED

(1) Whether Alabama's substitute parent regulation is unconstitutional as a violation of the Equal Protection Clause of the Fourteenth Amendment because the regulation allegedly looks primarily to the moral conduct of the mother or unsuitability of the home and not to economic factors; that allegedly it is a punishment against needy children rather than a classification of the situation of the family in which certain children live; and that allegedly it is not rationally related to the State's effort to place the responsibility for taking care of children on persons who bring them into being or to any other valid purpose of the ADC statutes.

(2) Whether the lower Court's Decree confuses submittals to the Department of Health, Education and Welfare of proposed legislation which related to classification based on the status of children born out of wedlock with the efforts of the Appellants to effectuate a classification based on the situation of the family, thus imputing an incorrect intention to the Alabama agency.

(3) Whether the Court was correct in striking down the entire substitute parent regulation when only

part of it applied to Appellees and without giving reasons as to why the other parts offended a Constitutional guarantee.

(4) Whether Appellees should be required to exhaust their administrative remedies prior to bringing action in Court.

(5) Whether granting of an injunction ordering the reinstatement of children found to be ineligible because of the regulation is correct in view of the burden placed on the agency and the concomitant likelihood of reducing payments and services to those currently receiving aid and whether the District Court Decree provides for proper safeguards of confidentiality concerning those persons.

(d)

STATEMENT OF THE CASE

The Appellants constitute the administrative and policy making officials responsible for the welfare programs in Alabama administering the public assistance titles of the Social Security Act and the County Director of the Department of Pensions and Security of the County in Alabama in which Appellee Smith and her minor children reside. In Alabama the welfare agency is by law designated the Department of Pensions and Security and is the single State agency designated to administer the public assistance titles of the Social Security Act, Title 42, United States Code, Sections 601, *et seq.* Appellee Smith and her four minor children are former recipients of ADC and aid was terminated to them under the substitute parent regulation in question; this is also a class action on behalf of all other persons similarly situated. By Order of the Court below the United States was made *amicus curiae* and party.

The three-Judge District Court has held in this case that a regulation, promulgated by the State Board of Pensions and Security, is invalid and unconstitutional and designates the basis for unconstitutionality as denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on its face and as applied in this case.

The regulation in question, set out in Appendix D, is a regulation restricting welfare payments to certain families where the grantee relative (usually the mother) cohabits with a substitute parent as defined in the regulation. Under the Alabama regulation the substitute parent may or may not be a putative father of one or more of the children in the household, or he may not know whether he is or not. If the grantee relative continues to cohabit with the able-bodied adult she must look to him or to other sources to help her financially with the children, or she must terminate the relationship in order to receive public assistance from the State. The regulation does permit the mother to choose which situation she wants to be in. The substitute parent regulation in attempting to arrive at a fair sub-classification of persons whose living situation resembles the situation of persons who live together in legally constituted families, that is in wedlock, attempts to further define those groups of persons who have "roving arrangements." The regulation, therefore, includes the person who cohabits with the mother either in or out of the house. The Alabama regulation does not require that the substitute father assume the role of father, which would require a caseworker to determine such things as whether the man showed kindness and affection to the children. Alabama, therefore, has eliminated from its determination of eligibility for public funds the attitude of the man toward the children. The Alabama regulation is based on the relationship of cohabitation with the mother. She cannot continue to get public aid merely by showing that the relationship is promiscuous, or that it takes place

outside of the home only, or that it takes place inside the home only.

The Appellants contend that the classification is a reasonable one based on the economic resources of the family and the relationship of the regulation to the scope of the ADC program in Alabama as administered by the Department of Pensions and Security. The average payment per family per month immediately before the regulation was promulgated was $48.15 per family or $11.69 per recipient. In January 1967, two and one half years later, the payment was $52.68 per family or $12.72 per recipient.

The District Court did not uphold Appellants' contention that the suit was premature since Appellees had not exhausted their administrative remedies.

A Motion to Stay the Mandates was filed in the Court below on November 15, 1967. On November 16, 1967, an Order was entered by that Court denying the Motion for Stay Pending Appeal. On November 27, 1967, an Order was entered by Justice Hugo L. Black granting the Appellants' Application for Stay Pending Appeal.

(e)

SUBSTANTIALITY OF QUESTIONS

Since the Court below struck down Alabama's entire substitute parent regulation as offending the Equal Protection Clause of the Fourteenth Amendment, there are far reaching public policy considerations which affect families with needy children in every State of the Union, particularly in those twenty-one other States which by statute or regulation incorporate the substitute parent concept in the administration of their Aid to Dependent Children program. Appellants venture to contend that there is no legal cause confronting the

United States Supreme Court which involves a greater challenge in finding the correct principles of justice to apply than is present in this case. Woven into debates in the Federal-State efforts to provide for the poor and needy through public welfare agencies is this recurring problem: to help one group may cause financial deprivation of another; to cut off one group may result in benefiting a larger group. The public welfare system in Alabama, like many States, is a categorical method of supplying some financial help and services to some needy people. It exists in accordion-like fashion dependent upon the money which the public chooses to put into the system; when the program contracts it is necessary to limit the groups assisted. The name of the public welfare agency in Alabama is Pensions and Security, but the change of the name in 1955 did not change the fact that it is *public* welfare. This Court is being asked to determine if Alabama's substitute parent regulation is reasonable in the light of the Equal Protection Clause and the necessity of the State to arrive at a fair method of expending public monies in its limited ADC program.

In Alabama Aid to Dependent Children is not given when children live in the home with two able-bodied parents. By regulation this applies to children living in the home with a parent and a stepfather or stepmother and to children living in the home with a parent and a man or woman without marriage. Thus, the State places those families living together out of wedlock in the same situation as those living together in wedlock. In applying this regulation in Alabama, the ADC caseload has been reduced. Payments to families who continue to receive the payments have been increased. The caseload per caseworker has been reduced. More money and more services are available to families with dependent children in Alabama who remain on the rolls. The questions which a public welfare agency must resolve any time a policy is adopted or deleted are: What would be the

financial impact on the total program? Is this a fair regulation in the light of those needy persons who are not now receiving aid? In identifying the "thereness" of a substitute parent these two questions have assumed a paramount importance.

Since the Aid to Dependent Children grant, unlike some other public efforts designed to help the indigent, involves a regular payment of public funds to be expended during the period of time the family is in need or until such time as the child reaches eighteen years of age, or twenty-one if attending school, there is every reason why there is a public interest in a State not undertaking the payment of these funds to families who because of their living arrangements would be in the same situation as if the parents were married, except for the marriage. If public aid is permitted in a meretricious relationship, but not in a legal one, the bizarre result is the penalizing of a family because of the very legality of its status.

The Court below struck down the entire regulation when only part of it applied to Appellees. No reasons were given why the other parts offended any Constitutional guarantee. One of the difficulties a State with a limited program has is how to delineate fair sub-classifications of "informal arrangements." Since the way in which a State arrives at these classifications and definitions reaches to the heart of fair play in public assistance, the Appellants consider this question to be of sufficient magnitude to warrant plenary consideration with briefs on the merits and oral argument for its resolution.

Respectfully submitted,

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Mrs. Mary Lee Stapp
Assistant Attorney General
of Alabama

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PROOF OF SERVICE

I, Mrs. Mary Lee Stapp, one of the Attorneys for Appellants and a Member of the Bar of the Supreme Court of the United States, hereby certify that on the .....day of December, 1967, I served copies of the foregoing Jurisdictional Statement on the several parties hereto as follows:

1. On the United States, by mailing a copy thereof in a duly addressed envelope with air mail postage prepaid, to the Solicitor General of the United States, Department of Justice, Washington, D.C. 20530; to Honorable Ramsey Clark, Attorney General of the United States, Department of Justice, Washington, D.C. 20530; to Walter Gorman, Esquire, Department of Justice, Washington, D.C. 20530; and by mailing three copies thereof in a duly addressed envelope with first class postage prepaid, to Honorable Ben Hardeman, United States Attorney for the Middle District of Alabama, Federal Building, Montgomery, Alabama 36104.

2. On the Appellees by mailing copies thereof to the respective attorneys of record as follows: A copy thereof in a duly addressed envelope with air mail postage prepaid, to Martin Garbus, Esquire, 156 5th Avenue, New York, New York 10010; and by mailing a copy

thereof in a duly addressed envelope with first class postage prepaid to Charles S. Conley, Esquire, 315 South Bainbridge, Montgomery, Alabama 36104; and Alvin J. Bronstein, Esquire, 603 North Farish Street, Jackson, Mississippi 39202.

Mrs. Mary Lee Stapp
Assistant Attorney General
of Alabama
Administrative Building
64 North Union Street
Montgomery, Alabama 36104

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MRS. SYLVESTER SMITH, individually and on behalf of her minor children, Ida Elizabeth Smith, Ernestine Smith, Willie Louis Smith and Willie James Smith and on behalf of all other mothers of needy, dependent children similarly situated,
Plaintiffs,

vs.

RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County Department

CIVIL ACTION
NO. 2495-N

of Pensions and Security, In-)
dividually and in their offi-)
cial capacities,)
Defendants.)

Before GODBOLD, Circuit Judge, and JOHNSON and PITTMAN, District Judges.

PER CURIAM:

I.

This is an action for declaratory and injunctive relief filed pursuant to 42 U.S.C. § 1983.[1] The "rights, privileges, or immunities" sought to be redressed are those secured by the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States and by the Social Security Act, 42 U.S.C. §§ 601-609. The declaratory judgment aspect of the action is pursuant to 28 U.S.C. § 2201.

Plaintiff Sylvester Smith, a citizen of the United States, the State of Alabama and the County of Dallas, and the mother of plaintiffs Ida Elizabeth Smith, aged 14; Ernestine Smith, aged 12; Willie Louis Smith, aged 11, and Willie James Smith, aged 9, brings this action in her own behalf, in behalf of said minor children and, pursuant to Rule 23(a) and (b) (2) of the Federal Rules

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[1] "§1983. Civil action for deprivation of rights

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. R.S. § 1979."

of Civil Procedure, in behalf of all other persons similarly situated.

The defendants are the chairman, members and officials of the Alabama State Board of Pensions and Security, responsible, in conference with the Commissioner, under the law of Alabama for the adoption of policies, rules and regulations of the Alabama State Department of Pensions and Security. Code of Alabama, Title 49, § 17. The Commissioner of the Alabama Department of Pensions and Security has a statutory responsibility for the adoption of the regulations designed to effect the policy and for exercising the executive and administrative duties of the Alabama State Department of Pensions and Security. Code of Alabama, Title 49, § 17. The defendant Mrs. Clinton S. Wilkinson, Sr., is Director of the Dallas County Department of Pensions and Security and is responsible under the law of Alabama (Title 49, § 17) for enforcing the policies and regulations of the Alabama State Department of Pensions and Security in the County of Dallas.

Since the plaintiffs seek injunctive relief restraining the defendant officers of the State of Alabama from the enforcement, operation and execution of a statewide regulation set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, Par. V (entitled "Child Ineligible if There Is a Father or Mother Substitute") and commonly referred to as the "substitute father" regulation,[2] on the ground of the

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[2] **"V. Child Ineligible if There Is a Father or Mother Substitute**

"A. **Father Substitute:** An able-bodied man, married or single, is considered a substitute father of all the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting

unconstitutionality of said regulation when measured by the requirements of the Constitution of the United States, a three-judge court was convened, pursuant to 28 U.S.C. § 2281, for hearing and determining this action.

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with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

"When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under 'Physical or Mental Incapacity'; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

"Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately."

Jurisdiction is conferred on the court by 28 U.S.C. § 1343(3) and (4).

II.

By stipulation of the parties made and filed with the Clerk of this Court, the action is submitted on depositions, numerous documents and exhibits, and the briefs and arguments of the parties.

For several years prior to October 1, 1966, plaintiff Sylvester Smith and her children had been recipients of financial assistance under the Aid to Dependent Children program of the State of Alabama, a public assistance program authorized by the Code of Alabama, Title 49, § 17 and 42 U.S.C. §§ 601-609. By notice dated October 11, 1966, plaintiff Smith and her children were removed, retroactively to September 30, 1966, from the list of persons eligible to receive such aid; this action was taken by the Dallas County, Alabama, welfare authorities pursuant to the "substitute father" regulation. In all respects, except for the "substitute father" regulation promulgated and enforced by the defendants, plaintiffs and the members of their class are eligible for and entitled to receive financial assistance under the Aid to Dependent Children program.

The defendants, in order to receive federal funds for the Aid to Dependent Children program conducted for the State of Alabama, have been required by the provisions of 42 U.S.C. §§ 601-609 to formulate a "State Plan" for aid to dependent children consistent with the provisions of the Constitution of the United States and the provisions of 42 U.S.C. § 601 et seq. Under the terms of the Code of Alabama, Title 49, § 17(7), the defendants are also required to "Act as the agent of the federal government . . . in the administration of any federal funds granted to the state to aid in the furtherance of any of the functions of the state department . . ." and

otherwise to act as the agents of the federal government in the furtherance of the objectives of the Aid to Dependent Children program. With this arrangement, federal funds are granted under the provisions of 42 U.S.C. § 601 et seq., and these funds constitute the major share of Aid to Dependent Children grants in the State of Alabama.[3]

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[3] Alabama requires defendants to provide Aid to Dependent Children financial assistance "on behalf of any needy child who is a dependent child as defined in the Federal Social Security Act or amendments thereto who shall comply with the applicable requirements of this chapter, and who: (a) Has not sufficient income and resources from all sources to provide a reasonable subsistence compatible with decency and health; (b) who meets any one of the following residence requirements—(1) has resided within the state for one year immediately preceding the application for aid, or (2) was born within the state within one year immediately preceding the application for aid, or whose parent or other near relative (as defined in the Federal Social Security Act) with whom the child is living has resided in the state for one year immediately preceding the birth of said child; (c) has not directly or indirectly disposed of or deprived himself of any property for the purpose of qualifying for the benefits of this chapter; and (d) is not receiving any other type of public assistance for which federal matching is available . . ." Code of Alabama, Title 49, § 17(14).

Under the terms of 42 U.S.C. § 606(a), a "dependent child" is defined as:

> ". . . a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home,

and (2) who is (A) under the age of eighteen or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;"

Three of the plaintiff children have not since 1955 received parental support or care from their father, who has been dead since that year. The fourth plaintiff child has not for several years received parental support or care from his father, who has been continuously absent for many years. All the plaintiff children are living in the home of their mother, plaintiff Sylvester Smith, and all are under the age of 18 and are not receiving any other type of public assistance. The sole income of plaintiff Smith and her children is the sum of $16 per week, which sum represents wages paid to her for working as a waitress; said income is below the financial standards promulgated by the defendants as necessary for a subsistence compatible with decency and health. In October 1966, Sylvester Smith was advised by an employee agent of the defendants that the "substitute father" of the Smith children was Willie E. Williams; that she and her children were no longer eligible for Aid to Dependent Children financial assistance because Mr. Williams was the "substitute father," and that Mrs. Smith and the children should look to Mr. Williams for financial support. Thereafter, the Aid to Dependent Children financial assistance was formally terminated through the use of the "substitute father" regulation. The evidence reflects that Willie E. Williams has nine children of his own and that he lives with his family, including his wife and eight of their nine children, who are dependent on him for support. Willie E. Williams is not now, nor

was he at the time of the termination of benefits to the plaintiffs, willing or able to support the Smith children. Willie E. Williams is the father of none of the children of plaintiff Sylvester Smith and does not live in the Smith home. While the evidence on this point is conflicting, it reflects with reasonable certainty that Dallas County, Alabama caseworker Mrs. Jacquelyn Stancil received a report that Willie E. Williams was periodically visiting in the home of Sylvester Smith and that from time to time Willie E. Williams and Sylvester Smith were engaging in sexual activity. The length or frequency of Willie E. Williams' visits with Sylvester Smith does not appear. Sylvester Smith failed to submit "evidence showing that the relationship" had been discontinued.

III.

Some discussion of the federal-state welfare relationship, particularly the negotiation concerning the promulgation of policies such as are now under consideration, provides some pertinent historical background. In January 1961, the Secretary of Health, Education and Welfare—after a hearing on a plan that had been adopted and promulgated by the State of Louisiana which was very similar to the rule now under consideration—stated what later became known as the "Flemming Ruling":[4]

> "I have concluded that when a needy child who otherwise fits within the Aid to Dependent Children program of the State is denied the funds that are admittedly needed to provide the basic essentials of life itself, because of the behavior of his parent or

[4] Notice of this ruling was given to all "State Agencies Administering Approved Public Assistance Plans," including the Alabama Department of Pensions and Security, on January 17, 1961 in State Letter No. 452, Bureau of Public Assistance, Social Security Administration, Department of Health, Education and Welfare, page 1.

other relative, the State plan imposes a condition of eligibility that bears no just relationship to the Aid to Dependent Children program. I therefore believe that this Department should inform the State agencies administering Aid to Dependent Children plans that eligibility conditions with the effect described above are not compatible with entitlement for continued Federal grants."

The United States Commissioner of Social Security, following the "Flemming Ruling," issued a statement to the effect:[5]

> "A State plan for aid to dependent children may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable, while the child continues to reside in the home. Assistance will therefore be continued during the time efforts are being made either to improve the home conditions or to make arrangements for the child elsewhere."

It was announced that the United States Department of Health, Education and Welfare's reasons for rejecting such policies were that:[6]

> "It is of great importance that State agencies should be concerned about the effects on children of the environment in which they are living and that services be provided which will be directed toward affording the children maximum protection and strengthening their family life. Whenever there is a question of the suitability of the home for the child's upbringing, steps should be taken to correct the situation or, in the alternative, to ar-

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[5] Ibid, p. 2.
[6] Id.

range for other appropriate care of the child. It is completely inconsistent, however, to declare a home unsuitable for a child to receive assistance and at the same time permit him to remain in the same home exposed to the same environment."

Even before the "Flemming Ruling" and as early as April 1956, the then Alabama Commissioner of Welfare and the federal authorities corresponded with some frequency in an effort to determine whether the Alabama policy was in conformity with federal requirements insofar as that policy related to "suitable family" homes, and in April 1959 the United States Department of Health, Education and Welfare by letter indicated certain substantial defects in legislation that was being proposed for the State of Alabama at that time:

"Section 2 of the proposed legislation defines a 'suitable home' as one which provides a 'stable environment' and lists criteria to be applied to the determination of a 'suitable home' and a 'stable environment'. It appears under this definition that the birth status of the child of a non-marital, but stable, union would not affect eligibility if the home was determined suitable. However, one of the criteria listed—'has continued to have illegitimate children' raises a question as to its meaning and intent. If, regardless of the fact that the home provided a 'stable environment', the children were to be denied ADC because all the children were illegitimate, or because a number of them were illegitimate, it would raise a question of reasonable classification."

* * *

"Section 3 raises a number of questions as to its meaning and its consistency with Section 2. Can 'illicit relationships' be interpreted as not including a 'stable enviornment', i. e., would a child of a 'stable

union' born after the receipt of ADC be regarded as illegitimate?

> "If interpreted so that parents maintaining a stable relationship (non-marital) and providing a suitable home for the children receiving ADC because of incapacity of one parent will be removed from ADC if and when another child is born, it would raise a question. The termination of assistance would be due entirely to the birth of an illegitimate child rather than to any change in the home environment that had been considered stable up to that point."

In May 1959 a new suitable home policy was submitted to the Department of Health, Education and Welfare. After review by that department, it was declared "unsuitable," and then later, in August 1959, still another suitable home policy was sent to the federal authorities for approval, with the same results. This negotiating continued, and in June 1961 the federal authorities replied to an Alabama submission as follows:

> "Since HB 613 appears to contemplate denial of assistance to the children who are permitted to remain in their homes after finding that the home is unsuitable it is inconsistent with Title IV of Social Security Act as amended by P.L. 87-31. Furthermore, finding of unsuitability based solely on birth status of child is also inconsistent with Title IV."

Still later — and over two years after the "Flemming Ruling"—the federal authorities, by letter dated June 12, 1963, advised the welfare authorities for the State of Alabama that the "suitable home" policy bills then being submitted to the Alabama Legislature

> ". . . appear to deny assistance to a needy child because he is found living in a home considered to be unsuitable. Since the proposed legislation pro-

vides for denial of assistance under the AFDC program while the child remains in the home without providing for other 'adequate care and assistance for such child,' it cannot be considered to be consistent with the Social Security Act."

The evidence in this case reflects that immediately after his appointment in January of 1963, Ruben K. King, present Commissioner of the Alabama State Department of Pensions and Security, commenced a complete study of the Aid to Dependent Children program in the State of Alabama; this study led to the adoption and promulgation of the "substitute parent" policy now under consideration.[7]

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[7] While the plaintiffs placed considerable emphasis upon facts strongly indicating that the "substitute father" regulation was designed to discriminate and has the effect of discriminating against Negroes, by reason of the facts presented, this case does not rest upon racial considerations and therefore the decision should not rest upon such considerations. On the contrary, this decision should be and will be designed to enure to the benefit of all needy children regardless of their race or color. The Equal Protection Clause is not restricted in its application to the protection of the rights of Negroes. It is more far-reaching, protecting the rights of any identifiable class. See, e.g., the opinion of another panel of this Court, **White** v. **Crook**, 251 F. Supp. 401, 408-09 (M.D. Ala. 1966).

In this connection, the Alabama Commissioner, Mr. King, testified that since June 1964, when the "substitute father" regulation was promulgated, the Alabama Aid to Dependent Children rolls have been reduced by 16,000 children. Commissioner King's testimony on this point was as follows:

"Q. Can you tell us the approximate number of recipients under the child eligible rule?

A. Do you want it prior to the substitute parent policy?

Q. Prior to and subsequent to.

A. In June of 1964, there were 22,373 cases in Aid to Dependent Children. In June of 1964, there were 92,124 recipients: of these, 72,764 were children. In January of 1967, there were 71,228 total number of recipients under the ADC program; of which 56,822 were children."

The "substitute father" regulation presently under consideration by this Court is substantially the same as the regulation first submitted to the Department of Health, Education and Welfare in September 1964 by Commissioner King and his organization. Upon receiving the Alabama "substitute father" regulation, the Atlanta Regional Director for the Department of Health, Education and Welfare, by letter dated August 31, 1964, responded by stating:

> "We have reviewed Administrative Letter No. 1919 which amended, effective July 7, 1964, the approved Alabama AFDC plan. This Administrative Letter purports to amend your policies on deprivation of parental support or care, with the specifically stated purpose of restricting the AFDC caseload. This amendment goes far beyond your presently approved plan in that it results in ineligibility of all children living in a home with a mother, if she cohabits with a man who is not her husband, or is illegitimately pregnant, or has given birth to an illegitimate child within the preceding six months, irrespective of whether the man has any family relationship with the mother and the child or children.
>
> "This policy raises a serious question with Section 404(b) of the Social Security Act and State Letter No. 452 by denying aid 'with respect to a child because of the conditions in the home in which the child resides'. Under the identified Federal law and policy a State may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis of behavior of the mother or other unsuitable conditions in the home so long as the child continues to reside in the home. The provisions of Administrative Letter No. 1919 seem clearly to be out of conformity with such law and policy.

"Other provisions of the policy imposing the burden on the mother with respect to proof of identity of the father or his whereabouts appear to be so unreasonable as to bring into question their acceptability under Federal policy. Eligibility may not be conditioned upon requirements which go beyond the parent's ability to meet.

"The Regional office is unable to accept Administrative Letter No. 1919 for incorporation into your approved AFDC plan. We would suggest, therefore, that you rescind this letter and reinstate the cases that have been closed under this policy."

Considerable correspondence ensued between the Alabama and the federal authorities concerning this "substitute father" regulation; however, this correspondence was to no avail, and the approval of the Department of Health, Education and Welfare to such policy was never obtained. In this connection, the evidence reflects that the Alabama regulation (now amended in minor details) presently in effect has not eliminated the administratively objectionable features of its predecessors.

IV.

As noted earlier, Aid to Dependent Children financial assistance is a statutory entitlement under both the laws of Alabama and the federal Social Security Act, and where the child meets the statutory eligibility requirements he has a right to receive financial benefits under the program. It is clear that Alabama, having undertaken to cooperate with the federal government in providing an Aid to Dependent Children program and having accepted federal financial assistance for that purpose, is not now free to bestow the benefits of the program upon some needy children and arbitrarily to deny them to others.

There cannot be any picking and choosing of the mothers and children who will be aided if it is done in an irrational or in an arbitrary manner. Some children cannot be classified as eligible and others ineligible without a reasonable basis for distinguishing one class from the other; classifications may only be created which are rationally related to the purpose of the federal and Alabama Aid to Dependent Children statutes. These are some of the basic requirements of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. These basic principles were stated as early as 1896 in *Gulf, Colorado and Santa Fe Railway Company* v. *Ellis*, 165 U.S. 150, 155, 17 S. Ct. 255, 41 L. Ed. 666:

> "The attempted classification . . . must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis."

The Supreme Court continued by pointing out that "arbitrary selection can never be justified by calling it classification." 165 U.S. at 159. This doctrine of constitutional law has developed to the extent that its application may be stated as "rules." Those rules were reiterated in *Morey* v. *Doud*, 354 U.S. 457, 463-64, 77 S. Ct. 1344, 1 L. Ed. 2d 1485 (1957).

> "The rules for testing a discrimination have been summarized as follows:
>
> " '1. The equal protection clause of the Fourteenth Amendment does not take from the State the power to classify in the adoption of police laws, but admits of the exercise of a wide scope of discretion in that regard, and avoids what is done only when it is without any reasonable basis and there-

> fore is purely arbitrary. 2. A classification having some reasonable basis does not offend against that clause merely because it is not made with mathematical nicety or because in practice it results in some inequality. 3. When the classification in such a law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enacted must be assumed. 4. One who assails the classification in such a law must carry the burden of showing that it does not rest upon any reasonable basis, but is essentially arbitrary.' *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61, 78-79."

For illustrations of the breadth of factual situations in which these rules apply, see also *Rinaldi* v. *Yeager*, 384 U.S. 305, 308, 309, 86 S. Ct. 1497, 16 L. Ed. 2d 577 (1966); *McLaughlin* v. *Florida*, 379 U.S. 184, 85 S. Ct. 283, 13 L. Ed. 2d 222 (1964) and cases cited, 379 U.S. at 190, 191; *Hernandez* v. *Texas*, 347 U.S. 475, 478, 74 S. Ct. 667, 98 L. Ed. 866 (1954).

This Court is clear to the conclusion that Alabama's "substitute father" regulation creates precisely the type of classification prohibited by the Equal Protection Clause. The Alabama regulation directs that Aid to Dependent Children financial assistance not be given to a class of children who meet the statutory eligibility requirements and that this financial assistance be denied for an arbitrary reason — the alleged sexual behavior of the mother; such a reason is wholly unrelated to any purpose of the Aid to Dependent Children statutes. The basic purpose of the program (Title IV of the Social Security Act, 42 U.S.C. § 601 et seq.) and the Alabama statute (Code of Alabama, Title 49, § 17) is to provide financial assistance to needy children who are deprived

of the support and care of one of their parents. As a matter of fact, the Alabama statute *requires* the defendants to furnish Aid to Dependent Children financial assistance "on behalf of any needy child who is a dependent child as defined in the Federal Social Security Act." As to this aspect of the program, the federal act defines a "dependent child" as one who is "deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent." Despite this clear legislative purpose of both the federal and Alabama statutes, the "substitute father" regulation directs that aid shall not be given to a particular class of needy dependent children who are deprived of parental support or care as a result of the death, or continuous absence of their father from the home, and who in all other respects meet the statutory eligibility requirements. In this regard, the Alabama regulation sets forth three situations in which needy dependent children, otherwise eligible, are to be denied this financial assistance:

> "(1) When a man (not married to the mother and not the father of the children) lives in the home 'for the purpose of cohabitation' with the mother;
>
> "(2) When a man (not married to the mother and not the father of the children) visits the home 'for the purpose of cohabitating' with the mother;
>
> "(3) When a man (not married to the mother and not the father of the children) 'cohabits' with the mother 'elsewhere', i.e. outside the home."

It is quite clear, therefore, that the Alabama regulation is directed at a dependent child or children whose mother

has non-marital sexual relations with a man or men—or, more broadly, whose mother's conduct is immoral, according to the Alabama authorities—and is not in anywise directed to either the support or care of the children by the mother or by the statutorily created "substitute father." This simply means that, through the promulgation of this "substitute father" regulation, the State of Alabama is looking primarily to the moral conduct of the mother and not to economic factors. The State quite candidly admits in its brief that:

> "Nevertheless, Defendants maintain that the state does not have to close its eyes to the way illegitimate children get born — that the recognition of the economic utilization of 'substitute parents' is not a violation of the Fleming Ruling."

The expressed interest of the State of Alabama in not desiring to underwrite financially or approve situations which are generally considered immoral is a laudable one; the State's argument that this regulation is "a genuine attempt to place the responsibility for taking care of children on persons who bring them into being" is, however, wholly without any realistic or rational basis insofar as this "substitute father" regulation is concerned. The punishment under the regulation is against needy children, not against the participants in the conduct condemned by the regulation. The State is not without means of attempting to solve the problem which it recognizes, short of depriving children of aid because of immoral conduct of the mother. Under the Alabama Support and Desertion Laws (Title 34, § § 89-104) and the Alabama Paternity Statutes (Title 27, § § 12(1)-12(9)), the father of children born out of wedlock may be required to support and maintain the children from a financial standpoint. Under Alabama Welfare Agency policies or regulations, if the home situation is considered

unsuitable appropriate action may be taken to place the needy children under the care of a Juvenile Court. The State's argument, implied throughout the brief,* that the "substitute father" regulation has a rational basis to the definition under 42 U.S.C. § 606(a) of dependent child(ren) who are to receive aid under the Act, by reason of the public's concern over the continued procreation of illegitimate children by persons who seem economically unable to care for them, is utterly unrealistic.

The approval or disapproval of sexual promiscuity is not here involved. What is involved is whether needy children can be deprived of public assistance through the use of a State regulation that creates classifications not rationally related to need and through the use of these classifications deprives approximately 16,000 Alabama children of financial assistance to which they are otherwise entitled. It should be noted that there is no vested legal right for anyone to receive public financial assistance; neither the United States nor the Alabama Constitution requires Alabama to grant financial assistance to needy dependent children. However, once Alabama undertakes to provide a statutory program of assistance, it must do so in conformity with the constitutional mandate of equal protection. Alabama cannot pick and choose the mothers and children it will aid through the use of some classifications which are not rationally related to the purpose of the applicable statutes. *Anders* v. *California*, 386 U.S. 738, _____ S. Ct. _____, _____

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* E.g.: "Certain phenomena have become apparent and a matter of realistic concern to everyone is the continued procreation of illegitimate children by persons who seem economically unable to care for them and undoubtedly in some instances seem to lack initiative or the desire to properly care for them. This is by no means limited to members of any one race. . . ."

L.Ed.2d____(1967); *Swenson* v. *Bosler*, 386 U.S. 258, 87 S. Ct. 996, 18 L. Ed. 2d 33 (1967); *Rinaldi* v. *Yeager*, *supra*; *Douglas* v. *California*, 372 U.S. 353, 83 S. Ct. 814, 9 L. Ed. 2d 811 (1963); *Griffin* v. *Illinois*, 351 U.S. 12, 76 S. Ct. 585, 100 L. Ed. 891, 55 A.L.R. 2d 1055 (1956), reh. denied 351 U.S. 958, 76 S. Ct. 844, 100 L. Ed. 1480. The irrationality and the unreasonableness of the Alabama regulation is starkly revealed when it is realized that the regulation singles out from the Alabama needy dependent children a particular class who are illegitimate, or whose mothers engage in an illicit sexual relationship, or who have an illegitimate child born in their family, and for one or more of these reasons renders ineligible those children otherwise eligible to receive financial benefits under the Aid to Dependent Children program. This "substitute father" gains his parental status under the Alabama regulation not by any act of fatherhood to the children and not by any support furnished, but merely by having sexual relations with the mother. The regulation assumes that from the mother's alleged sexual relationship the man has assumed the role of the father to her children; this despite the fact that the man is not the father of the children, is not married to the mother, is not living in the home, owes no duty of fatherhood to the children and gives them no financial support or parental care.

This Court concludes that the Alabama "substitute father" regulation is an arbitrary and discriminatory classification which results in the denial of financial benefits to needy children who are clearly eligible and entitled to receive such benefits under both the federal and State statutes and constitutional regulations and that said children are denied for reasons unrelated to and in conflict with the purposes of these statutes. For this reason, on its face and as the evidence reflects it has been applied in this case, the Alabama "substitute father" regulation

deprives those children of the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States.

In view of the conclusions herein reached, it is not considered necessary or even appropriate to deal with plaintiffs' other contentions.

A formal order will be entered accordingly.
Done, this the 8th day of November, 1967.

JOHN GODBOLD,
United States Circuit Judge

FRANK M. JOHNSON, Jr.
United States District Judge

VIRGIL PITTMAN,
United States District Judge

Attested A True Copy.
Certified to November 8, 1967.

R. C. DOBSON,
Clerk U.S. District Court,
Middle District of Alabama.

By JANE P. GORDON,
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MRS. SYLVESTER SMITH, individually and on behalf of her minor children, Ida Elizabeth Smith, Ernestine Smith, Willie Louis Smith and Willie James Smith and on behalf of all other mothers of needy, dependent children similarly situated.	)	
Plaintiffs,	)	CIVIL ACTION
vs.	)	NO. 2495-N
RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County Department of Pensions and Security, Individually and in their official capacities,	)	
Defendants.	)	

DECREE

Pursuant to the findings and conclusions set forth in the opinion and order of this Court made and entered in this cause this date, it is ORDERED, ADJUDGED and DECREED that:

(1) The regulation promulgated by the Alabama State Department of Pensions and Security entitled "Child Ineligible if There Is a Father or Mother Substitute" and set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, be and the same is hereby declared invalid for the reason that it is in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

(2) The defendants Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama; Lurleen Burns Wallace, Chairman, State Board of Pensions and Security, State of Alabama; James Record, Mrs. Mary Waite, William M. Clarke, Temple Coley, Grant Whiddon, Mrs. Mary Ella Reavis, members of the State Board of Pensions and Security, State of Alabama, and Mrs. Clinton S. Wilkinson, Sr., Director, Dallas County Department of Pensions and Security, their agents, employees and successors, and all persons in active concert and participation with them, are permanently enjoined and restrained from enforcing or giving any further effect to that regulation entitled "Child Ineligible if There Is a Father or Mother Substitute" and set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI.

(3) The defendants, their agents, employees and successors, immediately reinstate upon the Alabama Aid

to Dependent Children rolls, regardless of their race or color, each of the children who has been declared ineligible for Aid to Dependent Children financial assistance through the use of the regulation entitled "Child Ineligible if There Is a Father or Mother Substitute" and set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, provided the said children are now otherwise eligible and entitled to receive said assistance.

(4) The defendant Ruben K. King compile and file with the Clerk of this Court within not less than ninety days from the date of this order a list setting forth the names and addresses of the individuals who have been restored to the Alabama Aid to Dependent Children rolls pursuant to the opinion and decree of this Court.

The Clerk of this Court is ORDERED and DIRECTED to take the necessary and appropriate steps to have the United States Marshal for this district personally serve a copy of the opinion of this Court and of this decree upon each of the defendants.

It is further ORDERED that the costs incurred in this proceeding be and they are hereby taxed against the State of Alabama.

Done, this the 8th day of November, 1967.

JOHN C. GODBOLD,
United States Circuit Judge,

FRANK M. JOHNSON, JR.,
United States District Judge

VIRGIL PITTMAN,
United States District Judge

APPENDIX B

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MRS. SYLVESTER SMITH, Individually and on behalf of her minor children, etc., et al, Plaintiffs,	)	CIVIL ACTION
vs.	)	NO. 2495-N
RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama, et al, Defendants.	)	

The Honorable Frank M. Johnson, Jr., United States District Judge for the Middle District of Alabama, to whom an application for injunction and other relief has been presented in the above styled and numbered cause, having notified me that the action is one required by act of Congress to be heard and determined by a district court of three judges, I, Elbert P. Tuttle, Chief Judge of the Fifth Circuit, hereby designate the Honorable John C. Godbold, United States Circuit Judge, and Honorable Virgil Pittman, United States District Judge for the Middle and Southern Districts of Alabama, to serve with Judge Johnson as members of, and with him to constitute the said court to hear and determine the action.

WITNESS my hand this 13th day of December, 1966.

ELBERT P. TUTTLE,
Chief Judge
Fifth Circuit

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MRS. SYLVESTER SMITH, ET AL	)	
Plaintiffs,	)	CIVIL ACTION
vs.	)	NO. 2495-N
RUBEN K. KING, ET AL,	)	
Defendants.	)	

ORDER APPOINTING AND DESIGNATING THE UNITED STATES AS AMICUS CURIAE AND AS PARTY

Upon consideration of the complaint in the above-styled case and the relief sought, it appears that the issues involved are common and general, and this Court is of the opinion that the due and proper administration of justice requires that the public interests should be represented in these proceedings. To this end, this Court is of the opinion that it is now appropriate and necessary that the United States should be designated to appear and participate in all proceedings in this action before this Court and to accord this Court the benefit of its views and recommendations, with the right to submit pleadings, evidence, arguments, briefs, and to participate actively as a party in every phase of said proceedings, including the right to initiate such further proceedings that may be necessary and appropriate. *Faubus* v. *United States* (8th Cir. 1958), 254 F. 2d 797, cert. denied 358 U.S. 829; *Bush, et al.* v. *Orleans Parish School Board, et al.*, 188 F. Supp. 916 aff'd. 365 U.S. 569; *Bush, et al.* v. *Orleans Parish School Board, et al.*, 190 F. Supp. 861, aff'd 366 U.S. 212; *United States* v. *Barnett* (5th Cir. 1962), 330 F. 2d 369; *Lee* v. *Macon County Board of*

Education, 231 F. Supp. 743 (1963); *Miles, et al.* v. *Dickson, et al.*, Civil Action No. 2326-N, MD Ala., June 15, 1966,————F. Supp.————; *Alabama NAACP State Conference of Branches, et al. v. George C. Wallace, et al.*, Civil Action No. 2457-N, MD Ala.

In accordance with the foregoing and for good cause, it is the ORDER, JUDGMENT and DECREE of this Court that the United States of America be and is hereby designated to appear and participate in all proceedings in this action before this Court as amicus curiae and as a party thereto. It is the further ORDER of this Court that the Attorney General of the United States, and such attorneys in the United States Department of Justice as he may designate, be and he is hereby appointed to appear and participate in behalf of the United States in this action.

Done, this the 4th day of January, 1967.

FRANK M. JOHNSON, JR.
Chief Judge

APPENDIX D

V. *Child Ineligible if There Is a Father or Mother Substitute.*

A. *Father Substitute:* An able-bodied man, married or single, is considered a substitute father of *all the children of the applicant/* recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home,

he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately.

The mother of an illegitimate child applying for ADC must sign an affidavit giving the name and last known address of the father of the child if the child is one year old or under. If she is unable to name the father of an illegitimate child one year or under, she must complete an affidavit setting forth her reasons for not knowing who is the father of her child.

Exception: Given below are two exceptions that apply in the case of a mentally ill or retarded mother of a child one year of age or under:

1. Do not require an affidavit if the mother has a legally appointed guardian or representative.

2. If the mother is not in the home *and* is not in the community, have the grantee relative complete the affidavit, unless one of the conditions described in item 1 exists.

Use PSD-152, "Affidavit of Mother," in securing information about the identity of the alleged father of a child one year of age or under. In preparing the affidavit, the counsellor is responsible for:

1. Giving the affiant a detailed explanation of the contents of the form;

2. Explaining that she is making a sworn statement; also, that under Alabama Law anyone who knowingly and willfully gives false information in such a statement is liable to perjury charges and that the penalty for perjury is imprisonment;

3. Explaining that she will not be eligible if she does not give the information required and sign the affidavit;

4. Explaining that she is free to decide whether or not she wishes to give the information and sign the affidavit;

5. Striking through the inappropriate section of the form (item 2 or 3); and

6. Changing the wording on the form to reflect the identity of the affiant when the grantee

relative is the person giving the information.

The affidavit may be notarized by a staff member of the county department. The notary enters at the point at which the affidavit is ready for signature. Before it is signed, she must assure herself that the affiant:

1. Is aware of the contents of the affidavit;
2. Is making the statement voluntarily; and
3. Is aware that she is making a sworn statement.

In addition to the affidavit, the mother of an illegitimate child one year of age or under must present two acceptable reference statements, as described earlier in this section, to establish that the relationship with the "father" is broken. Where feasible, these statements should be in writing.

B. *Mother Substitute:* If a child's natural or adoptive father cohabits with a woman *who lives in his home,* she is considered a substitute mother of all the children in his home. The woman's pregnancy or having a baby six months or under is prima facie evidence that she is cohabiting with the father in whose home she is living. When there appears to be a substitute mother *living in the home,* an application will not be approved or a case will not be continued eligible unless the father establishes that one of the following situations exists: (1) he and/or the substitute mother meets the criteria of disability as described under "Physical or Mental Incapacity"; or (2)

the substitute mother is no longer living in the home.

Evidence showing that the substitute mother has moved out of the father's house includes proof such as: the mother has married another man; or she is in a public institution; or she is living at another address; or a notarized statement by the father and substitute mother that she is no longer living in his home. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the father will be given 30 days to present his evidence before his application is disapproved or his case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the father, the worker will assist in any way possible to help the father establish that the substitute mother is no longer in the home. Also, before rejecting an application or closing a case, the worker will talk with the father about reasons for the agency's action and about his right to reapply at any time that there is no longer a substitute mother in the home. If the family is otherwise eligible, the case should be recertified for aid immediately.

In the case of deprivation due to disability, budget contributions that the substitute parent who is in and out of the home is making or agrees to make. If the substitute parent is also the alleged parent of one or more of the children, follow the procedure under "Use

of Court Action Against Legal Parent" when court action has been taken.

Note: When an application is rejected or a case closed because of a substitute father or mother or for any other reason and the county has a commodity or food stamp program, the parent should be advised to reapply for commodities or food stamps under the category of "Other." If the parent meets the requirements, he (or she) can receive the commodities.

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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1967.

No. 949.

RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County, Department of Pensions and Security, Individually and in Their Official Capacities,

Appellants,

v.

MRS. SYLVESTER SMITH, Individually, and on Behalf of Her Minor Children, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH and WILLIE JAMES SMITH and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated,

Appellees.

On Appeal from the United States District Court for the Middle District of Alabama, Northern Division.

BRIEF FOR APPELLANTS.

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OCTOBER TERM, 1967.

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Appellants,

v.

MRS. SYLVESTER SMITH, Individually, and on Behalf of Her Minor Children, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH and WILLIE JAMES SMITH and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated,

Appellees.

On Appeal from the United States District Court for the Middle District of Alabama, Northern Division.

BRIEF FOR APPELLANTS.

OPINION BELOW.

The Opinion of the United States District Court for the Middle District of Alabama, Northern Division (A. 41), is reported at 277 F. Supp. 31.

JURISDICTION.

Appellants filed the Notice of Appeal to this Court in the District Court on November 20, 1967. The Order of Justice Hugo L. Black staying the execution and enforce-

ment of the Decree of the District Court was conditioned on the docketing of the appeal within thirty days from November 27, 1967. The case was docketed in this Court on December 26, 1967, and probable jurisdiction was noted on January 22, 1968. Jurisdiction on appeal is conferred by Title 28, United States Code, Section 1253.

REGULATION INVOLVED.

The substitute parent regulation involved, which was promulgated by the Alabama Department of Pensions and Security, Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, is set out in Appendix page 427.

THE QUESTIONS PRESENTED.

(1) Whether Alabama's substitute parent regulation is unconstitutional as a violation of the Equal Protection Clause of the Fourteenth Amendment because the regulation allegedly looks primarily to the moral conduct of the mother or unsuitability of the home and not to economic factors; that allegedly it is a punishment against needy children rather than a classification of the situation of the family in which certain children live; and that allegedly it is not rationally related to the State's effort to place the responsibility for taking care of children on persons who bring them into being or to any other valid purpose of the Aid to Dependent Children statutes.

(2) Whether the lower Court's Decree confuses submittals to the Department of Health, Education and Welfare of proposed legislation which related to classification based on the status of children born out of wedlock with the efforts of the Appellants to effectuate a classification based on the situation of the family, thus imputing an incorrect intention to the Alabama agency.

(3) Whether the Court was correct in striking down the entire substitute parent regulation when only part of it applied to Appellees and without giving reasons as to why the other parts offended a Constitutional guarantee.

(4) Whether Appellees should be required to exhaust their administrative remedies prior to bringing action in Court.

(5) Whether the District Court's Decree provided for proper safeguards of confidentiality concerning those persons ordered to be restored to the Aid to Dependent Children rolls.

STATEMENT OF THE CASE.

The Appellants constitute the administrative and policy making officials responsible for the welfare programs in Alabama administering the public assistance titles of the Social Security Act and the County Director of the Department of Pensions and Security of the County in Alabama in which Appellee Smith and her minor children reside. In Alabama the welfare agency is by law designated the Department of Pensions and Security and is the single State agency designated to administer the public assistance titles of the Social Security Act, Title 42, United States Code, Sections 601, *et seq.* Appellee Smith and her four minor children are former recipients of Aid to Dependent Children (hereinafter called ADC), and aid was terminated to them under the substitute parent regulation in question; this is also a class action on behalf of all other persons similarly situated. By Order of the Court below the United States was made *amicus curiae* and party (A. 20).

The three-Judge District Court has held in this case that a regulation, promulgated by the State Board of Pensions and Security, is invalid and unconstitutional and designates the basis for unconstitutionality as denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on its face and as applied in this case (A. 59).

The regulation in question (A. 427), is a regulation restricting welfare payments to certain families where the grantee relative (usually the mother) cohabits with a substitute parent as defined in the regulation. Under the Alabama regulation the substitute parent may or may not be a putative father of one or more of the children in the household, or he may not know whether he is or not. If the grantee relative continues to cohabit with the able-bodied

adult she must look to him or to other sources to help her financially with the children, or she must terminate the relationship in order to receive public assistance from the State. The regulation does permit the mother to choose which situation she wants to be in. The substitute parent regulation in attempting to arrive at a fair sub-classification of persons whose living situation resembles the situation of persons who live together in legally constituted families, that is in wedlock, attempts to further define those groups of persons who have "roving arrangements". The regulation, therefore, includes the person who cohabits with the mother either in or out of the house. The Alabama regulation does not require that the substitute father assume the role of father, which would require a caseworker to determine such things as whether the man showed kindness and affection to the children. Alabama, therefore, has eliminated from its determination of eligibility for public funds the attitude of the man toward the children. The Alabama regulation is based on the relationship of cohabitation with the mother. She cannot continue to get public aid merely by showing that the relationship takes place outside of the home only, or that it takes place inside the home only. The regulation does not authorize "midnight raids" or any searches after office hours into the homes of ADC recipients.

Mr. Ruben K. King, Commissioner of the State Department of Pensions and Security, testified that the Aid to Dependent Children program was very controversial and that there had been talk about abolishing the program. He had a study (A. 98, 569) made of the program. The two results of this study were to seek legislation making nonsupport a felony and promulgating the policy requiring that those enjoying the privileges of a husband exercise responsibilities in the home (A. 67). Mr. King stated that the regulation was not looking at the lack of morality in these relationships but was looking at them as a source of

income. He emphasized that the regulation was based on the economic resources of the family and the relationship of the regulation to the scope of the ADC program in Alabama as administered by the Department of Pensions and Security. The average payment per family per month immediately before the regulation was promulgated was $48.15 per family or $11.69 per recipient. In January 1967, two and one half years later, the payment was $52.68 per family or $12.72 per recipient (A. 70).[1]

In defining terms of the policy the Commissioner explained that the term "cohabitation" was taken from Black's Dictionary (A. 77). In discussing his interpretation of "frequently" he stated that each case would have to be resolved on its own unique factual situation, but that he would not consider cohabitation less than once a week to be "frequent" (A. 84). Commissioner King pointed out that the policy permits the mother, instead of the State, to make a choice about discontinuing this type of relationship but that he expected the policy to be interpreted with reasonableness and if a woman was mentally incapable of securing proper evidence or does not know what is meant by the policy in those situations "it would be my hope that there has not been a determination of ineligibility" (A. 109). He also stated that if the Department found that the mother was not using the money to care for the children and the children were being deprived, the Department would petition the court for temporary custody of the children and would put those children in foster homes.

Mr. King pointed out a great concern over losing the entire program and the fact that the families with children were getting only 38% of what they should be getting. He stated that the regulation was never intended to try to punish a Negro or to try to punish a white person,

[1] In December 1967 the average payment in the ADC category per family was $64.35, or $15.51 per recipient.

but that it was a question in his mind of whether it would be necessary to remove three or four thousand persons from the ADC rolls or whether it would be necessary to discontinue the entire ADC program (A. 106-108). Mr. King stated that in 1966 there was a total of 17,157 families in the State receiving ADC, that 67.3% were members of the Negro race and 32.4% were members of the white race and .03% of other races. Prior to the promulgation of the substitute parent regulation there were in 1964 a total of 22,373 families receiving ADC, 66% were members of the Negro race, 33.7% were members of the white race, and .03% were of other races. (P. L. Exhibit 18, A. 564.) Commissioner King testified that he knew of no administrative appeal having been taken by Plaintiff Smith (A. 113).

In the Board minutes (A. 711) Commissioner King stated that he did not believe the Board should be in the position of subsidizing such relationships. He also told the Board that the new policies were not intended to hurt children but to place the burden of support where it belonged.

The substitute parent regulation has never been approved or disapproved by the Department of Health, Education and Welfare. All policy material submitted to HEW relating to the substitute parent policy has been marked NL—Is under consideration and notice of action will be sent later (A. 364, 367, 373, 377, 380).

The regulations of the Alabama Agency governing the application process (A. 784-792), the processes relating to reviews to determine whether continuing eligibility exists (A. 792-798), and right of fair hearings (A. 854-865), all of which have been approved at the Federal level, were submitted in evidence.

In her testimony Mrs. Jacquelyn Stancil, the Plaintiff's caseworker, indicated the way in which she applied

agency procedure in reviewing Plaintiff's case to determine whether or not there was continuing eligibility. Mrs. Stancil testified that she did examine Mrs. Smith's file at the time Mrs. Smith was assigned to her caseload. According to the caseworker the case record contained information about the Plaintiff's relationship with a man who was living with her on the weekends; prior to the time the substitute parent regulation went into effect, and the source of the information was the Plaintiff herself (A. 129-130). The caseworker further testified that when she made a review, a reference given to her by the Plaintiff to verify points of eligibility had indicated that the Plaintiff was continuing to maintain a marital relationship (A. 131). Subsequently, the caseworker interviewed Mrs. Smith, told her that according to information which she had received that she and a Mr. Williams were maintaining a marital relationship and asked Mrs. Smith if this was correct and Mrs. Smith said that it was (A. 131). Mrs. Stancil stated that the Plaintiff said that Mr. Williams had stayed at her home on the weekend (A. 131). Subsequently, Mrs. Smith in her deposition denied admitting the relationship to Mrs. Stancil (A. 255, 266, 267). In her deposition Plaintiff Smith at one point testified that the substitute parent regulation had not been explained to her (A. 254); however, on cross-examination she stated that the workers had tried to explain it to her (A. 268, 269). Mrs. Stancil testified that she explained to Mrs. Smith the right of appeal (A. 145). Mrs. Smith denied that the right of appeal was explained to her (A. 255, 256, 260, 261). Mrs. Smith admitted that she did receive the mimeographed sheet explaining the right of appeal (A. 272); she further read from a duplicate mimeographed sheet and indicated that she understood what she had read (A. 272-274).

Defendant Wilkinson along with six other County Directors of Departments of Pensions and Security gave

interpretations on the way in which the substitute parent policy was applied in their counties. The testimony of the seven Directors of County Departments of Pensions and Security indicated that the facts of each case have to be considered in determining how the policy reasonably applies, that is, whether the relationship is a continuous one. This bears out the testimony of Mr. King to the effect that the application of the policy would depend upon the facts in each situation (A. 84, 87, 88, 170, 171, 180, 201, 227, 233, 234). Even though Appellees have contended that the terms in the policy such as "frequently" and "regularly" had different meanings to different County Directors, there is the consistent interpretation that these terms must be applied in accordance with the facts of each situation. Numerous statistics were introduced into evidence, including studies relating to average grants and the number of families receiving Aid to Dependent Children classified by race. While statistics for seven counties selected by Appellees showed that in certain counties there were many more cases of Negro families closed than white (A. 736), there was no evidence whatsoever to show that the policy was applied differently to any person because of race. There was no evidence that any white family or any Negro family to which the policy was applicable was still receiving aid or that any family to which the policy was not applicable had had their aid terminated because of the policy. Detailed caseload studies were introduced into evidence relating to Dallas County, the home of Plaintiff Smith. In June of 1964, shortly before the regulation went into effect the evidence showed that 97.9% of the families receiving Aid to Dependent Children were members of the Negro race and that in June 1966, nearly two years after application of the regulation began, 98.4% of the ADC caseload in Dallas County were members of the Negro race. Evidence introduced in the case showed that according to the 1960 census 57.7% of the population in

Dallas County were members of the Negro race and 42.3%, white.

The District Court did not uphold Appellants' contention that the suit was premature since Appellees had not exhausted their administrative remedies.

A Motion to Stay the Mandates was filed in the Court below on November 15, 1967. On November 16, 1967, an Order was entered by that Court denying the Motion for Stay Pending Appeal. On November 27, 1967, an Order (Exhibit A hereto) was entered by Justice Hugo L. Black granting the Appellants' Application for Stay Pending Appeal. The Supreme Court noted probable jurisdiction on January 22, 1968. After the enactment into law of the 1967 Social Security Amendments, which included a limitation on Federal ADC funds based on the number of persons receiving such aid because of absent fathers during the first quarter of 1968, Justice Black entered an Order (Exhibit B hereto) on January 29, 1968, vacating his Stay Order of November 27, 1967. On January 31, 1968, Appellants filed a Motion in the District Court requesting an extension of time to file the list of persons restored to the Alabama Aid to Dependent Children rolls pursuant to the Opinion and Decree of that Court, and further moving the Court to issue an appropriate Order to protect such list from public disclosure and to protect the confidential nature of the list (Exhibit C hereto). On February 1, 1968, the District Court entered an Order (Exhibit D hereto) giving Appellants until February 26, 1968, to file the list. The District Court did not grant the Motion relating to confidentiality.

SUMMARY OF ARGUMENT.

I.

The substitute parent regulation is a reasonable classification under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. A State welfare agency necessarily classifies persons in accordance with their need for public aid. Where families with able-bodied parents who are married to each other and who reside together are not aided, families similar except for legality of marital status should properly be included within the same category. If this were not done, families with legal status would be unfairly discriminated against and non-marriage would be encouraged and rewarded.

Such classification is valid when the regulation is based on the relationship between the mother and the man who assumes the role of husband and does not require evidence that the man who assumes the role of husband also assumes the role of parent.

To make responsible use of available funds welfare agencies must restrict categories in order to include the most needy. The regulation is not based on moral judgments relating to the sexual behavior of the poor, nor is it based on the status of illegitimacy of children: it is a method of utilizing economic resources available. The man who has the privileges of a husband should reasonably be expected to assume the responsibilities of the family rather than the State.

Racial discrimination has never been permitted under the Federal-State public welfare system and has not been shown to exist under the substitute parent regulation.

II.

Proposed legislation which was not sponsored by the Alabama agency was transmitted to the Department of Health, Education and Welfare by the Alabama agency. These legislative proposals, which were not passed, appear to have been confused by the lower Court with submittals of policy material to HEW by the Alabama agency. This confusion resulted in an incorrect imputation of intention to the Alabama agency of basing policy on morals of parents and on the legitimacy status of children.

III.

The substitute parent regulation sets out three separate subdivisions in its definition of substitute father. The situation of the Plaintiff in this case falls into the second group defined; for this reason the decision of the lower Court should properly have been confined to a consideration of that part of the regulation. The Court did not give reasons as to why the other parts of the regulation offended any Constitutional guarantee.

The right of privacy asserted by the Plaintiff is a right which applies only to married persons. Plaintiff's claim of privilege against self-incrimination is not ripe for consideration because there is no threat of prosecution. There are no vested rights in public assistance which could be construed as property rights which would be inconsistent with the right of the State to abolish a public assistance category.

IV.

In view of the broad protection now afforded public assistance applicants and recipients under the administrative appeal procedures, these remedies should be exhausted before class action suits are initiated.

V.

One of the rights which is clearly safeguarded by statute for all applicants and recipients of public assistance is the right to confidentiality. This right should not go unprotected in a class action, thereby preventing members of that class from enjoying the rights secured by statute. The lower Court should have given the protective orders requested by the Alabama agency to guard the confidential nature of the list of names submitted by the agency pursuant to the Order of the Court.

ARGUMENT.

I.

Equal Protection—the Alabama Regulation Is a Reasonable Classification.

The Appellants, hereinafter referred to as the Alabama agency, contend that the substitute parent regulation represents a fair classification within the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. There are three major reasons for the development of the regulation: (1) the necessity of the State to limit its ADC program in the light of the financial resources available for ADC; (2) recognition of public interest in not putting more money into a program which results in underwriting a situation which in effect approves of bringing other children into existence in families that cannot afford to care for them; and (3) the public interest in not giving a monetary advantage to people in illicit relationships which can have the effect of deterring marriage.

Woven into debates in the Federal-State efforts to provide for the poor and needy through public welfare agencies is this recurring problem: to help one group may cause financial deprivation of another; to cut off one group may result in benefiting a larger group. The public welfare system in Alabama, like many States, is a categorical method of supplying some financial help and services to some needy people. It exists in accordion-like fashion dependent upon the money which the public chooses to put into the system; when the program contracts it is necessary to reduce payments or to limit the groups assisted. The name of the public welfare agency in Alabama is Pensions and Security, but the change of the name in

1955 did not change the fact that it is *public* welfare. This Court is being asked to determine if Alabama's substitute parent regulation is reasonable in the light of the Equal Protection Clause and the necessity of the State to arrive at a fair method of expending public monies in its limited ADC program.

In Alabama Aid to Dependent Children is not given when children live in the home with two able-bodied parents. By regulation this applies to children living in the home with a parent and a stepfather or stepmother and to children living in the home with a parent and a man or woman without marriage. Thus, the State places those families living together out of wedlock in the same situation as those living together in wedlock. In applying this regulation in Alabama, the ADC caseload was reduced. Payments to families who continue to receive the payments have been increased. The caseload per caseworker has been reduced. More money and more services are available to families with dependent children in Alabama who remain on the rolls. The questions which a public welfare agency must resolve any time a policy is adopted or deleted are: What would be the financial impact on the total program? Is this a fair regulation in the light of those needy persons who are not now receiving aid? In identifying the "thereness" of a substitute parent these two questions have assumed a paramount importance.

Since the Aid to Dependent Children grant, unlike some other public efforts designed to help the indigent, involves a regular payment of public funds to be expended during the period of time the family is in need or until such time as the child reaches eighteen years of age, or twenty-one if attending school, there is every reason why there is a public interest in a State not undertaking the payment of these funds to families who because of their living arrangements would be in the same situation as if the

parents were married, except for the marriage. If public aid is permitted in an informal relationship, but not in a legal one, the bizarre result is the penalizing of a family because of the very legality of its status.

In Alabama the grant known as Aid to Dependent Children will hereinafter be called ADC. On a national level and in other States the same program named Aid to Families with Dependent Children will hereinafter be called AFDC.

In his article on *The War on Poverty,* Vice President Hubert H. Humphrey has written the following:

> "America has continually made attempts to improve the lot of its poor. In the recent past we have had the 'New Deal' and the 'Fair Deal.' In nearly every generation we have had social reform legislation working to mitigate the harshness of poverty. Edgar May states in his book *The Wasted Americans* that prior to the war on poverty the welfare programs of the past were basically outgrowths of two opposing views on poverty:
>
> The first one, 'Go to the ant, thou sluggard, consider her ways and be wise.' (*Proverbs* 6:6)
>
> The second, 'And if thy brother be waxen poor and fallen in decay with thee, then thou shalt relieve him. Yea, though he be a stranger or a sojourner, that he may live with thee.' (*Leviticus* 25:35)
>
> In America it has been the philosophy of the former rather than the latter that most often prevailed."[2]

The Alabama agency does not believe that the "go to the ant theory" has perished but considers that in AFDC it has evolved in the direction of the public requirement that now that this has been considered, it is time for every-

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[2] 31 *Law and Contemporary Problems* 6, 7.

one to be rehabilitated and go to work.[3] It does not appear that any of the major Congressional thrusts directed to solving poverty problems show any letup in sight for persons who really want to remain dependent. The national programs reflect a determination to rehabilitate everybody and even the concept in AFDC in the Social Security Act has shifted away from the mother staying at home with her children to the mother being a part of the labor market.[4] Whereas it might be advanced that the Economic Opportunity projects were designed to help the *nouveau pauvre*,[5] it is clear that public assistance in Alabama is concerned with the very poor, poor. Nevertheless, there are many other efforts, public and private, involved in helping the poor—particularly poor persons with children. The substitute parent regulation in seeking to limit the groups who will receive regular monthly grants has as one of its primary aims the raising of grants to those families who remain on the rolls. Unlike the picture painted by Plaintiffs in the Court below,[6] the Alabama

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[3] *The New Social and Rehabilitation Service*, Mary E. Switzer, p. 17; *Social Welfare Policy for 1976*, by Wilbur J. Cohen, The Journal of the American Public Welfare Association, Vol. XXVI, p. 23 (January 1968).

[4] "A new part C of the AFDC title establishes a 'work incentive program' which will be administered by the Department of Labor to provide training and employment for AFDC recipients, with the ultimate objective of placing as many persons as possible in regular employment." Section 204 of Title II, Public Welfare Amendments 1967, 81 Stat. 884.

[5] There is no single standard for financial eligibility for OEO projects. For non-farm families of four, the guideline is $3,200 per year with $500 added or subtracted for less or more members of the family. For farm families the amounts are less, representing only about 60% of the amount for the non-farm family. In Appalachia (Alabama has 32 counties in this area) there is still another standard which is somewhat lower than OEO in other parts of the State. The means test for ADC payments in Alabama is considerably lower (A. 833-835).

[6] The picture suggested was that if a mother did not receive her ADC grant, the children starved. As it turned out many of

agency would like this Court to realize some of the other efforts and programs which are available to assist families with dependent children in Alabama. Some of them are: (1) Foster boarding homes that care for children who are temporarily out of their own homes, (2) Day Care Center Services for children two and one-half years of age and upward who are in need of group day care, (3) Family Day Care Services for children under two and one-half years of age, (4) Child Caring Agencies and Institutions that give care to neglected and dependent children, (5) Maternity homes and hospitals for unmarried mothers, (6) Salvation Army in many communities helps needy families in various ways—food, clothing, rent, furniture, etc., (7) Juvenile Courts can often be helpful in dealing with various parent-child relationship situations, (8) Private child placing agencies: a. Children's Aid Society of Jefferson County, b. Family Counseling Center of Mobile, c. Methodist Children's Home, d. Bureau of Catholic Charities, and (9) Various programs sponsored by O. E. O. such as: a. Head Start Programs, b. Parent-Child Centers, and c. Manpower Development and Training Programs, and (10) Surplus Commodities and Food Stamp Programs. This is a partial list but it is obvious that there are many groups, institutions, and agencies at work to assist families. It does not appear that regular payment grants to families with dependent children are being favored on a national or state level with respect to the amount of money available for the grant. Further state and national efforts are under way for day care, Head Start programs and work training incentive programs for appropriate members of ADC families. Continuing payments to families found ineligible because of the regulation causes the

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the mothers married. Exhibit E contains a statistical summary of what happened to the families in the caseload affected by the substitute parent policy. This became available only after vacation of the Stay.

likelihood of reducing payments and services to those other recipients receiving aid. The Alabama agency does not see how spreading its limited ADC money any thinner will accomplish responsible results.

The cases cited by the lower Court in connection with the classification question do relate to the question of the rules for determining whether a classification is in accordance with the Equal Protection Clause of the Fourteenth Amendment. These rules are stated in *Morey v. Doud*, 354 U. S. 457, 77 S. Ct. 1344, 1 L. Ed. 2d 1485 (1957). However, none of the cases cited involves a fact situation similar to this case nor do they relate to the specific public interest contemplated by this case. The question is not, as stated in the Opinion of the lower Court, whether a classification can be used which is not rationally related to the purpose sought to be accomplished; the very basis for constitutional classification requires a rational relationship to such purpose. The question, rather, is whether the classification created by the Alabama regulation is related to proper purposes under the ADC statutes. Specifically the lower Court's statement is:

> "What is involved is whether needy children can be deprived of public assistance through the use of a State regulation that creates classifications not rationally related to need and through the use of these classifications deprives approximately 16,000 Alabama children of financial assistance to which they are otherwise entitled" (A. 57).

We submit that this begs the question. A review of all cases cited in the Opinion reveals that there has been no judicial determination of the reasonableness of the kind of classification made in the Alabama substitute parent regulation. Further, none of the cases reaches the question of the power of the State to limit public assistance and whether a rule, like the regulation in question here,

is within the proper scope of that power. An outline of the equal protection issues in the cases cited by the Court below are set out as Exhibit F.

Black's Law Dictionary gives as its first definition of marriage the following: "*Marriage,* as distinguished from the agreement to marry and from the act of becoming married, *is the* civil status, *condition,* or relation *of one man and one woman united in law for life, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex.*" *Black's Law Dictionary,* Fourth Edition, West Publishing Company, page 1123. (Emphasis supplied.) The association is founded on the distinction of sex. Somewhere in the enigma of this distinction lies the essence of this lawsuit. When persons of different sexes simulate the marriage relationship and enter into "associations" on a continuous basis without making a lifetime commitment, should such associations be favored in the determination of ADC eligibility? The common law marriage is not included in the substitute parent policy since in Alabama a common law marriage is a marriage and it is not this type of relationship which the substitute parent policy defines. It has been held in Alabama "To constitute a 'common-law marriage' there must be a mutual understanding to presently enter into marriage relation, permanent and exclusive of all others, followed by cohabitation or mutual assumption openly of marital duties and obligations and public recognition of existence of common-law marriage." *Goodman v. McMillan,* 61 So. 2d 55, 258 Ala. 125, certiorari denied 73 S. Ct. 789, 345 U. S. 929, 97 L. Ed. 1359, rehearing denied 73 S. Ct. 942, 345 U. S. 961, 97 L. Ed. 1381, rehearing denied 73 S. Ct. 1141, 345 U. S. 1004, 97 L. Ed. 1408, rehearing denied 74 S. Ct. 73, 346 U. S. 853, 98 L. Ed. 368, petition denied 74 S. Ct. 228, 346 U. S. 892, 98 L. Ed. 395, petition denied 74 S. Ct. 305, 346 U. S. 920, 98 L. Ed. 414.

The substitute parent policy would, however, include those relationships meeting all of the tests of a common-law marriage except that one or both of the parties are not free to contract marriage. The Alabama regulation attempts to include persons who enter into an association founded on a distinction of sex which does not constitute a legal marriage but does include regular cohabitation —a person who assumes the role of spouse, but is not legally the spouse.

The problem involved in assuming that the man in "informal arrangements" can be considered as a substitute parent is similar to the problem raised in step-parent relationships. In a study entitled *The Stepfather in the Family,* published in 1940, Adele Stuart Meriam,[7] after reviewing the legal relationship of a stepfather to children in the family in the various States of the Union writes as follows:

> "These are not all the states but they probably indicate the problems that present themselves. The difference between the attitude of the courts who look at the problem exclusively from a legal point of view and the administrative authorities who view the situation from the point of view of the children's needs is obvious. Not legally but morally, socially, domestically, the stepfathers may seem responsible. When it is a question on the one hand of using public funds or on the other calling on stepfathers to recognize moral or domestic obligations where domestic satisfactions are enjoyed, the choice seems easy to make. Yet the effect on the relationship of the husband and wife resulting from enforcing obligations on the step-parent is not ignored."[8]

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[7] *The Stepfather in the Family,* Adele Stuart Meriam, The University of Chicago, Social Service Monographs, Edited by the Faculty of the School of Social Service Administration.

[8] *Ibid.,* 88.

A helpful comparison showing the California approach has been described as follows:

"In determining a child's eligibility for AFDC benefits, should the earnings of a step-father be taken into account? The California statute, and regulations in a number of other states, make his income relevant. Dr. Bell commented:

> So long as the evidence genuinely supported the conclusion that a man lived continuously in the home or was considered by the family to have the status of 'father' and 'husband,' there may have been little logical basis for distinguishing such a family from those with two able-bodied legally married parents who were excluded until 1961 by Title IV of the Social Security Act, and also until the present time from numerous state and local general assistance programs, particularly in Southern states.

We hold no brief for tying assistance benefits to rigid categories—permitting payment for physical but not for mental or emotional defect, or authorizing benefits when an incapacitated father is in the home but denying them if the father is simply unemployed. Yet it would be impossible to obtain widespread support for an assistance program which ignored the earnings of a natural father. Indeed, only strongly felt notions of parental responsibility can explain the original ADC program's exclusion of a child whose 'able-bodied' natural father is a member of the family. These notions operate today. When the 1961 Social Security Act amendments broadened the program to include families with an unemployed father in the home, 'Congress imposed conditions designed to stimulate the employment or enhance the employment of that parent—that is, to eliminate his idleness and lack of visible means of

support.' And the amendments permitted the states to continue pre-1961 policies. It is perfectly natural that legislators would hesitate to adopt a program which might encourage lazy fathers to rely solely on the public to support their families—their concern is appropriate so long as it does not become an obsession. The Bureau of Public Assistance construed the original ADC provisions to permit exemption of the stepfather's income in determining a child's eligibility—apparently because a stepfather has no statutory obligation to support the child. Yet if the Congress did not want to encourage lazy natural fathers, it should be equally opposed to encouraging lazy stepfathers. The issue, then, is whether stepfathers should be treated differently than are natural fathers when public funds are at stake." 54 Calif. L. J. 774.

In Alabama, aid is not granted where there is a legally married able-bodied stepfather in the home even though the step-father is not the natural father of any of the children in the home. This is one of the reasons why the Alabama agency considers it eminently fair to include other types of comparable arrangements for purposes of limiting its ADC program. The article points out further on pages 776 and 777 as follows:

"More basic considerations also suggest that the stepfather's income should be counted in determining eligibility. One need not be bigoted—against the poor or other minority groups—to believe that welfare programs should encourage stepfathers to assume the support responsibilities which a natural father would be compelled to assume and which, as we have already indicated, many stepfathers voluntarily assume. A 'substitute parent' rule will certainly encourage some stepfathers to support the children in their homes. On the other hand, a stepfather who can

rely upon a monthly AFDC payment may not be as willing to devote his income to maintaining his wife's children. He might also be encouraged not to adopt the children, since his family's government bonus would then terminate. Indeed, there have been cases (in the welfare department records of at least one jurisdiction which did not at the time have a 'substitute parent' rule) in which stepfathers have been urged not to adopt lest AFDC benefits be lost. A 'substitute parent' rule might encourage some stepfathers who obtain employment to divorce their wives; but are the divorce risks more substantial than the irresponsibility we encourage by exempting the stepfather? A 'substitute parent' rule may encourage some stepfathers to stay unemployed; but is avoiding this disincentive more important than treating the stepfather's income as we would the natural father's income?"

We set out in detail the discussion concerning the stepfather since the reasoning is to some extent similar as it respects the substitute parent and man in the house type of consideration. The writers point out that much of the opposition to the substitute parent rule has been occasioned by the use of the rule to regulate the out-of-wedlock sexual behavior of AFDC mothers. Citing the work of Bell, *Aid to Dependent Children,* VII, 1965, Professors Lewis and Levy continue as follows:

"The 'man in the house' rule authorizes the welfare department to consider the income of a 'male person assuming the role of spouse to the mother although not legally married to her' in determining a child's eligibility for AFDC benefits. The rule has produced violent controversy. It seems likely, however, that much of the opposition has been occasioned by use of the rule to regulate the out-of-wedlock sexual behavior of AFDC mothers:

> [T]he 'nonstable, nonlegal' union in Arkansas, the 'male boarder' in Michigan, 'Roger the Lodger' in Oregon, the 'unrelated man living in the home' in Alabama were examples of a rather tenuous relationship where there was no necessary presumption of a consistent or acknowledged relationship and evidence of the man's existence was sometimes so insubstantial or transient that he was dubbed the 'phantom father' in one study."

If a definition includes a man the existence of whom is "so insubstantial or transient" that he may be dubbed "a phantom father" would this make the classification unreasonable in terms of the Fourteenth Amendment? Since, under the Alabama rule the essence of the relationship in all three aspects of the regulation is regular, frequent or continuous cohabitation, and the mother may exercise her right of an administrative appeal to see if the policy has been fairly applied, or discontinue the relationship and receive aid, the Alabama agency contends that this is not a fair label to apply to the Alabama policy. We do consider the reasoning set out further in this article to be most helpful in understanding the position of the Alabama agency with respect to the fairness of its regulation. Thus, on page 778 the writer describing the stable informal relationship which the California regulation attempts to define states the following:

> "The rule recognizes (as does Professor tenBroek) that in a society which includes many cultures and a substantial group of poverty-stricken individuals many perfectly stable informal families will inevitably be found."
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> * * * * * * *
>
> "We do not want to be misunderstood. We are not urging a morality crusade. Rather, we see the rule simply as a method of eliminating an evasionary de-

vice. If a stepfather rule is adopted, a 'man in the house' rule is a necessity—so that couples will not be encouraged to live together without marrying in order to continue the mother's AFDC benefits. The more inclusive rule is especially important in jurisdictions in which substantial populations feel little cultural compulsion to engage in ceremonial ('legal') marriage.''

Divorce and remarriage is an expensive luxury that the very poor cannot always afford. We consider the further comments on the man in the house rule pertinent.

''The 'man in the house' rule may accomplish what it was designed to accomplish—financially able 'fathers' will remain in the home and will support the children. We share Professor tenBroek's doubt, however, that in every case 'it is reasonable to infer that a man assuming the role of spouse will contribute to the support of the mother and her needy child.' We also doubt the effectiveness of the circumscribed support obligation appended to the California 'man in the house' rule: '[S]uch adult male person is bound to support, if able to do so, his wife's children if without support from such . . . adult male person they would be needy children eligible for aid under this chapter.' The only effective sanction will probably be the mother's threat: 'Support me and the kids, or out you go!' If she does not threaten, and the children suffer, the community can intervene through the processes of the juvenile court. If the mother makes use of her sanction because her AFDC benefits are at stake, the 'man in the house' rule may have a 'deterrent effect on stable common-law unions providing a two-parent home for the child by the withdrawal of the premium.' But the only men (who have or can obtain decent employment) likely to be influenced by the

rule are: (1) those who would rather use their own income on themselves to the exclusion of their families, and (2) those who would be tempted to desert their families simply because the taxpayers' contribution to the family's income is eliminated. We wonder whether it is socially useful to encourage the stability of such two-parent families. We do not know, it is true, that children will develop more favorably without a 'father' than they will with a financially able 'father' who refuses to support them. But we have no reason for believing the contrary.. In any event, the only way to eliminate the deterrent effects of the rule would involve placing a 'financial premium' on informal relationships. Since we must either encourage or discourage the stability of these families—we are not discussing immoral families, let us repeat, but families whose stability is based solely on the continuance of a governmental income increment—it does not seem improper to adopt the course suggested by middle-class notions of family support."

The Department of Health, Education and Welfare allows states to make plans which include payments to children in families with a stepfather who owes no legal duty of support. Pursuant to recent Social Security amendments payments can also be made where both mother and legal father live in the home but are unemployed. States, however, are not required to include these broad provisions in their State plan. States with limited funds available for ADC are not able to finance such an expansion in their ADC programs. They have approved plans in which the State defines parents to include an able-bodied step-parent or a man who lives in the house who is not married to the mother but who assumes the role of father. Although some states seem to make classifications based on the assumption of the role of father by the man in the house, the Alabama Agency

does not consider this to be a good test. In the first place in the marriage relationship the way in which "people assume the role of father" takes on a variety of patterns. It is a subjective thing. Some persons may "assume the role of father" by standards which to another person may not "mean fatherhood at all." Some fathers may be fathers only because they happen to engage in cohabitation with the mother at a particular point in time but the interest and willingness to "assume a role of fatherhood" may be lacking altogether. Nevertheless, if at that particular point in time the mother did conceive and bring forth a child, the law describes this man as "the father".

The Alabama agency does not wish to make the relationship of the man in the house with the children a basis for determining eligibility. The Alabama agency considers that it is not wise to differentiate between in-and-out-of-the-home and stable relationships in a way which would require the worker to have to make a grant on a subjective relationship of the father to the children in the home. As previously pointed out this is not the relationship which the public wishes to discourage. The relationship the State is defining is that which is in and of itself a risky relationship—the relationship of regular cohabitation outside of marriage among persons who wish the State to assume the continued burden for support of the children.

In instances where the "arrangements" are less than "stable"—sometimes described as "roving" arrangements or in-and-out-of-the-home arrangements, the State is attempting to define the person who "assumes the role of spouse."

Who bears the burden of the risks involved in the informal relationships? Should the State bear them financially on a long range basis or the one who takes the

risks bear them? How can anyone say that one comes closer to the solution of the problems created thereby by passing the risk to the State. The meaning of the relationship and the necessity of having proper care for children ultimately rests on those who bring them into being. Does a State welfare department with an admittedly limited amount of financial resources to spend for ADC assume its proper role when it acts as insurer for these risky arrangements? Alabama contends that it has attempted to define the person "who assumes the role of spouse" in its substitute parent regulation in terms that the persons applying the policy can understand. Until the family can take care of those it already has, the State agency doubts the wisdom of the State assuming the risk.

Although the Social Security Act permits Federal matching funds to states who grant aid where there are two able-bodied parents in the home, under the unemployed father legislation,[9] many states have not undertaken this since the amendment makes it optional. The

[9] Title IV of the Social Security Act, Section 407; 42 U. S. C. 607. The 1967 amendments to the Social Security Act makes the sections permanent and optional for the States. The term "unemployment" is to be defined by HEW instead of the States. To be eligible a father must have had six or more quarters of work in any 13-calendar-quarter ending within one year prior to the application for assistance or have received or is qualified to receive unemployment compensation within one year prior to application. He must also have been unemployed for at least 30 days and not have refused without good cause a bona fide offer of employment or training within 30 days. Anyone who has fulfilled the quarters-of-work requirements at any time after April 1961, and anyone already receiving AFDC-U under the old plan, will be considered eligible in that respect during the first 6 months of the operation of the state plan under these new provisions. The welfare agency will be required to refer an unemployed father to a work incentive program within 30 days after the receipt of assistance, but if no suitable employment or work-training project is available assistance will be continued. This amendment became effective January 1, 1968, but a state already participating in this program will not be required to provide in its state plan for the addition of any new cases because of the provisions of this amendment before July 1, 1969..

AFDC title, like other public assistance titles in the Social Security Act and amendments, provides different options or possibilities for states with respect to the granting of aid to certain groups of persons. The granting of Federal funds operates on an incentive basis, and if a state undertakes to grant aid to a particular group the state receives a large share of Federal funds to assist the state in financing the program. Within certain limits the state can elect not to include certain groups and at the present time approximately twenty-eight states have not elected to give grants where there are two able-bodied parents in the home.

Initially and even now Section 406 of Title IV of the Social Security Act defines dependent child as meaning "a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment; * * *" Apparently through the years, even at the Federal level, this has been interpreted as "deprivation of parental support" and has meant deprivation of one or two parents. The question has, therefore, presented itself from time to time of how a state defines who a parent may be. The question has been extremely important since the patterns of living among the poor do not always fall into neat organized legally acceptable pat-

terns where clear cut legal rights, duties and obligations flow from parent to child and child to parent. The problem frequently presents itself when HEW looks at a State Plan to determine if the state has presented an acceptable definition of parent.[10]

Generally a stepparent is considered to be a person married to the mother or father of a child. If there is an able-bodied stepparent in the home, then the child would not be deprived of two able-bodied parents. It is apparent that some individuals though not actually formally married to the natural parent of the child or children, are present and a state should be able, by describing the living situation to identify such a person as a parent within the meaning of Section 406 of the Social Security Act. The problem a state faces in arriving at these types of classifications is one of being sure that the needy families wherein the parents are married are not penalized because of the legality of their marriage.

Should a caseworker be required to measure the degree of kindness, affection and other parent-child expressions, such as giving gifts, to establish eligibility? The Alabama agency submits that there is considerable wisdom in not differentiating, for public assistance purposes, between those relationships which may be less formal, that is, the true live-in situation and that which might be described as the man in-and-out-of-the-home or the roving situation. The Appendix contains a very interesting study made in Dallas County, the home of the Plaintiff in this lawsuit (A. 587). This is entitled "A Demonstration Project—

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[10] Part IV, Handbook of Public Assistance Administration 3412. *"Interpretation.* This provision sets forth the two eligibility factors, 'need' and 'deprivation of parental support or care,' on which Federal participation is conditioned. The provision requires that both need and deprivation of parental support or care exist in the individual case but does not require that an affirmative showing be made that a causal relationship exists in the individual case."

Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Currently Considered Unsuitable." The project, conducted before the adoption of the Alabama substitute parent policy and completed shortly before the policy went into effect, describes among other things the importance of the relationships of the man in the house to the children. This is borne out further in the deposition of the project director (A. 116). For example, the project director stated (A. 118) as follows: "We had a very distinct impression from our work on the project that relationships of substitute father, whether part time or full time, did in the majority of cases have real meaning to the children in the family. So many of the children called the man 'Daddy,' they would distinguish between Daddy and 'my real daddy'; and one of the interesting things was that even after the relationship was broken, many of the children still maintained that relationship with a friend of the mother." The first relationship in the last sentence apparently relates to the one with the mother. The second relationship described partook of the relationship of friendship in the nature of a parent-child friendship. Later in the deposition the project director pointed out the good, positive emotional factors this second type of relationship can have in the emotional well-being of a child (A. 119, 122). The Alabama agency, therefore, believes that it is unwise to put a caseworker in the position of granting or terminating aid based on the relationship of the man in the house to the children. Alabama maintains that its substitute parent regulation is a better method of classification since it does not require the caseworker to terminate aid merely because the man in the home has shown affection, kindness, and interest in the children. The test should be whether he assumes the role of spouse. In legal unions a child derives his legal status from the marriage, not from subjective acts of kindness or even support which may or may not come from his father.

Section 401 of Title IV of the Social Security Act[11] entitled "Grants to States for Aid and Services to Needy Families with Children" provides as follows:

> "For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid and services to needy families with children."

It is clear that the purpose of the State-Federal program envisages something other than a mere money payment to a family. The Social Security Act and amendments in the past few years emphasize the feature of assisting families to achieve self-support and personal independence, strengthen family life, and provide for an increased Federal share in the cost of administration when the State Plan includes the certain types of services designed to accomplish these objectives. One of the requirements includes reducing the caseload of caseworkers in order to make more services available to people. The magnitude of the problem to be solved in achieving these objectives

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[11] 42 U. S. C. 601.

can be discerned somewhat by reading Plaintiff's Exhibit No. 24, "A Demonstration Project—Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Currently Considered Unsuitable" (A. 587). This project was conducted in Dallas County, which is the home of Mrs. Smith and her family—the Plaintiffs in this case. The purposes of the project are set out on the first two pages of the study (A. 590-592), and the identification of the problem areas are set out at A. 608-611. Although the project provides helpful information in recognizing the tremendous scope of the problem, it is clear that one of the difficulties in assessing the results lies in the small amount of financial assistance received by the project participants. The monthly ADC grant was much below 50% of the actual needs of the family as determined by agency standards. If 100% of need could have been met the achievements might have been far greater. Thus, the financial situation is seen as a factor which keeps one from knowing what results might have been achievable if more income or ADC payment had been available (A. 607-616). The Alabama agency agrees that man does not live by bread alone, nevertheless, it is disheartening to attempt a rehabilitation effort when the effort, to begin with, lacks an adequate means of helping the family achieve the minimum standard a state says is necessary for maintaining decency and health.

In the absence of a great commitment on the part of the taxpayer to put tremendous sums of money into helping the indigent find a way to overcome their limitations, a State welfare agency needs to carve out a role it can manage. This is the situation of the Alabama welfare agency at the present time. The State has not chosen to put large sums of money into this program, and since the initiation of the lawsuit and the appeal to this Court, Congress has shown a general unwillingness to increase the flow of Federal money to the children caught in this

situation. Nevertheless, there has been some effort made toward increasing grants of persons who are already receiving AFDC and amendments to accomplish this were also passed in the 1967 Social Security amendments. Interpretation of these seemingly contradictory efforts are explained in a draft of a letter to State agencies from the Department of Health, Education, and Welfare (Exhibit G hereto).

The Alabama regulation would not be a rational regulation under any test of law in this country if it was conceived as an instrument for racial discrimination or in its application applied as such.

If an official knowingly deprived a family of a public assistance grant or services under the ADC program in Alabama because of race, such person would not only be guilty of socially reprehensible actions, but would have probably violated State criminal statutes.[12] There has never been a moment in the State-Federal program when discrimination because of race in the grants to public assistance recipients could ever be considered within the law.[13] The Civil Rights Act of 1964 added nothing to that.

The Alabama agency asserts that Appellees have failed to establish that the Alabama agency has discriminated

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[12] Title 41, Section 206, *Public Officer or Servant Defined;* Section 212, *Willful Neglect of Official Duty;* Section 222, *Oppression Under Color of Office,* Code of Alabama, 1940, as recompiled 1958.

[13] The Handbook for the Administration of Public Assistance, Part IV, 2331, contains as a requirement for each State Plan that "no person shall be refused the opportunity to apply for * * * ADC." It must provide for a determination of eligibility or ineligibility or provide that assistance shall be paid to each eligible applicant. Any differentiation based on race has never been a part of the process of determining eligibility in public assistance. Part II, 4300, p. 2 provides "and that benefits of the programs will be equally available to all eligible persons; and that State policies, standards and methods will apply equally to persons in like situations wherever they may live."

in its formulation or application of the substitute parent policy because of race.

We do not believe the footnote[14] to the District Court's Opinion (A. 51) commenting on this intended such indictment, and the State agency would not have appealed this cause and sent the record in the case to be scrutinized by this Court if it believed that the regulation was designed to discriminate and has the effect of discriminating because of race. There is no evidence in the record to show that the Alabama agency has applied this regulation differently to any white or Negro person in the State. There are numerous opinions and views of the differences in cultural practices in respect to informal arrangements among the poor. If statistics showing number of illegitimate births give a fair picture of informal practices, it does appear that these informal practices are considerably more numerous among the lower income members of the Negro race in this country than among other ethnic groups.[15]

The Alabama agency does not believe that members of the Negro race would wish to be excused from the application of a fair rule just because of their race. Under the law it is quite clear that members of the Negro race are

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[14] "While the plaintiffs placed considerable emphasis upon facts strongly indicating that the 'substitute father' regulation was designed to discriminate and has the effect of discriminating against Negroes, by reason of the facts presented, this case does not rest upon racial considerations and therefore the decision should not rest upon such considerations. On the contrary, this decision should be and will be designed to enure to the benefit of all needy children regardless of their race or color. The Equal Protection Clause is not restricted in its application to the protection of the rights of Negroes. It is more far-reaching, protecting the rights of any identifiable class. See, e.g., the opinion of another panel of this Court, *White v. Crook*, 251 F. Supp. 401, 408-09 (M. D. Ala. 1966)."

[15] 1 Vital Statistics of the United States 1962, pp. 1-18, table 1-21. A. 218, A. 723 (See Brenz, Mary, *The Significance of the Father*, Family Service Association of America, New York, 1959, pages 69-70).

to be treated as full members of society, and this includes the low income members.

Although the ADC caseload is made up of a much larger percentage of members of the Negro race in Alabama than white, in relation to the percentage of population by race, there are statistics which show that this alone does not in any way prove that they are more "dependent"[16] as a race and in need of paternalistic differentiation. Commissioner King testified (A. 105) that among absent fathers a higher percentage of Negro fathers contribute to the support of their children than white fathers. This is borne out in nation-wide research.[17] The desire of many ADC mothers, Negro and white, to keep their children together in a family unit[18] in the face of extreme adversity should command everyone's respect. The evidence introduced attempting to show racial discrimination is not persuasive.

The percentage of Negroes on the ADC rolls increased between 1964, the year the substitute parent regulation was adopted, and 1966. In 1964 a total of 22,373 families received ADC, 66% of those were members of the Negro race, 33.7% were members of the white race, and .03%

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[16] Kaplan, Saul, *Support From Absent Fathers of Children Receiving ADC*, 1955, U. S. Department of HEW, Washington, D. C., 1960, page 36; Lefcovitz, Myron J., "Poverty and Negro-White Family Structures," Unpublished Background Paper for White House Conference on Civil Rights, Washington, D. C., November 1965.

[17] Kaplan, Saul, *Support From Absent Fathers of Children Receiving ADC*, 1955, U. S. Department of HEW, Washington, D. C. 1960, page 36—"the families with non-white unmarried mothers received contributions at a somewhat greater rate (10.9 percent) than the families with white mothers (9.2 percent)."

[18] Many ADC mothers have a sense of responsibility to their children as is evident from their interest in them. In one study it is reported that 33.4% belong to Parent Teacher Associations. Reilly, Charles T., and Margaret M. Pembroke, "Chicago's ADC Families—Their Characteristics and Problems," the Loyola University School of Social Work, 1960, pages 45-50.

were of other races. In 1966 of the total 17,157 families receiving ADC, 67.3% were Negro, 32.4% white, and .03% other. Shortly before the stay Order was vacated the percentage of the ADC caseload who were members of the Negro race was 69.5%, white 30.2%, other .03%. The only county about which extensive evidence, including detailed statistical data on its ADC program was introduced was Dallas County. As far as the evidence in this case goes, therefore, it would be the only county in which some fair conclusion may be reached. Detailed caseload studies were introduced into evidence relating to Dallas County, the home of Plaintiff Smith. In June of 1964, shortly before the regulation went into effect, the evidence showed that 97.9% of the families receiving Aid to Dependent Children were members of the Negro race and that in June 1966, nearly two years after application of the regulation began, 98.4% of the ADC caseload in Dallas County were members of the Negro race. Evidence introduced in the case showed that according to the 1960 census 57.7% of the population in Dallas County were members of the Negro race and 42.3% white. (See A. 563, 564, 565, 583-586.)

Any person who engages the professional social worker in serious dialogue learns quickly that those professional persons who engage full-time in trying to see through and untangle the eternal mystery of what to do about the poor do not believe that regular money payments to families with dependent children cause either dependency or more dependent children.[19] No doubt a State

[19] According to the 1952 nationwide ADC study, it does not appear that ADC has created an "attitude" of dependency among families. The median length of time ADC was received was twenty-five months (two years and one month). One out of five families received ADC for less than twelve months before termination. Only 11% received aid for as long as seven years, 3% for eleven years or more. Blackwell, Gordon W. and Gould, Raymond F., *Future Citizens All* (Chicago, Illinois: American Public Welfare Association, 1952), pages 21-45.

public welfare administrator has plenty of opportunities to learn that the public does not always share this point of view. And though the social worker vigorously protests that mothers are not going to bring into this world a baby in order to receive a welfare grant of $11.69 a month,[20] a spokesman for the public who resists putting more money into the program could counter, "but by giving a grant or more money, you are approving of bringing another child into existence in a family that cannot afford to care for it—you are using my tax money to underwrite a situation which is bringing about a necessity for more of my tax money—not less!" How does a state administrator, under the present ADC statutes, realistically come to grips with this dichotomy? Can a welfare administrator with a limited budget honestly deal with the public concern and ignore the basic reason children are born in these situations? Does the public have an interest in welfare agencies facing up to the reason poor children are born? The Alabama agency is convinced that children born into poor families come into being like children born into richer families—as a result of their parents cohabiting. One of the differences a state welfare administrator must face is that families who cannot financially care for these children do look to the public to help care for them. Is it, therefore, fair for the public to ask the poor not to increase the tax burden if they wish to continue receiving help?

Categorical assistance in and of itself sets out classifications of groups in order to limit the number of persons who will receive public assistance. Sometimes it appears that the arrival at a point in which a group may be considered for aid as distinguished from another

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[20] In June of 1964 the average payment per family was $48.15 or $11.69 per recipient. In January of 1967 the average payment per family was $52.68 or $12.72 per recipient (A. 70).

group which is not, the line drawn may seem arbitrary. And in one sense it is. For example, a person sixty-four years of age who has critical financial needs might wonder how the age of sixty-five was arrived at as far as eligibility for Old Age Assistance is concerned. Frequently, persons in their early sixties have critical needs; some have difficulty securing employment at that age and many do not meet the test of permanent and total disability which would enable them to receive aid for the permanently and totally disabled. That age sixty-five has often been used as a compulsory retirement age does not answer the question, as the inquiry remains as to why that particular age is used for retirement purposes. In any case the fact of drawing a line based on age appears as an arbitrary rule. But the age of sixty-five has been arrived at as a means of limiting the number of persons who shall be eligible for Old Age Assistance.[21] It appears to be an age when Congress and State legislatures have agreed that one has suddenly become old enough to be classified as "aged" for purposes of eligibility for Old Age Assistance, described as an Old Age Pension in Alabama law. This puzzle has been posed as follows:

> "Another question needing clarification is, 'Who is an older person?' Is an older person identified on the basis of productive capacity, intellectual attainments, social activity or chronological age? The arbitrary age of 65 has limited thinking and planning, giving more emphasis to the 'old' old individual than to the evolving problems of the aging process. Then, too, the categorical approach in public assistance programs has tended to create false divisions in thinking and planning; e. g., the assumption that there are no children involved in an Old Age Assistance program and

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21 Title 49, Section 17 (14), Code of Alabama 1940, as recompiled 1958; Title I of the Social Security Act, Sections I and II; 42 U. S. C. 1381, 1382.

no older people in Aid to Dependent Children. Moreover, it has contributed to the tendency to devote little attention to persons in their middle years: this constitutes a gap in understanding of the aging process."[22]

No doubt many would agree that persons sixty-five and over who have learned a great deal about life and dealing with life's problems may well be in a better position for focusing clearer thoughts, more sensible analysis and possess a better system of mental organization than the younger members of the human race. The Alabama agency agrees that:

> "Each person has a unique life history which makes him, with the passage of time, increasingly different from others in many of his habits, customs, and values. The 17 million persons who constitute the aged in American society in the mid-sixties include wealthy as well as poor, healthy as well as ill, contented as well as discontented, privileged as well as deprived.
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> There is no such thing then, as 'the' aged; and it would be more accurate to speak of people who have grown old rather than to speak of 'the' old. People who have grown old do not all have the same needs, the same tastes, the same ways of looking at the world. It is only in a very general sense that these persons can be said to have certain common characteristics which distinguish them from the young and the

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22 American Public Welfare Association, *Planning Improved Services for the Aging Through Public Welfare Agencies.* Report of institute sponsored by the American Public Welfare Association Project on Aging, November 28-30, 1960 (Institute Leader: Eunice Minton, Chief, Welfare Services Branch, Division of Program Standards and Development, Bureau of Public Assistance, Department of Health, Education and Welfare. Recorder: Mrs. Frances Schmidt, Public Relations Consultant Specializing in Social Welfare, Reading, Ohio), Chicago, Published August 1961, page 6.

middle-aged, and which give them a unique place in American society."[23]

Nevertheless, all through the public assistance programs there are categories which define those persons to be assisted and at the same time limit assistance. A needy person who is not assisted is affected by the classification.

The increasing body of literature[24] which points out many of the inadequacies and difficulties in the present welfare system have a tendency to forget that administrators, supervisors, and caseworkers in public welfare agencies are also people, just like the poor and needy are people. The working people in public welfare agencies are supervised primarily by persons who have had training in methods and principles of Social Work. Their professional orientation, in attempting to help the poor and needy, is to help the poor discover their own strengths and learn principles of organization which will lead them out of economic dependency into greater possibilities for self-help. No doubt some persons in these fields have greater talents than others for accomplishing these purposes and helping individuals achieve higher forms of economic independence. Some teachers have greater skills than others. No doubt the overwhelming paper work which swamps social agencies (and the teaching professions) limit the amount of time which is needed to carry on the type of

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23 U. S. Department of Health, Education and Welfare, Welfare Administration, Office of Aging. "The Aged in American Society", by Bernice L. Neugarten, Professor of Human Development, University of Chicago. *Selected Papers—Fifth Annual National Conference of State Executives on Aging*, Washington, D. C., U. S. Government Printing Office, 1965, Office of Aging Publication No. 123, page 37.

24 Like Willie Morris in *North Toward Home*, the Alabama agency does not exactly understand all that is being said and discussed about public welfare and would like to share the conversation appearing on page 373 of Mr. Morris' book in lieu of attempting any detailed analysis of books and law review articles on this subject. See Exhibit H.

casework described in the Dallas County demonstration project.

In one of the articles which attempts to psychoanalyze the public welfare system, *The Children of Leviathan: Psychoanalytic Speculations Concerning Welfare Law and Punitive Sanctions,*[25] Dr. Diamond visualizes the problem of the poor to be like the problem of the disabled who is considered to be a non-person and sharply cut off from the major benefits to be derived from society. The Alabama agency submits that where this is being done, it is not being done in accordance with the purpose of State-Federal programs and that the real problem is not in the ambivalent attitude of social agencies in failing to see the poor as persons, but in the nature of a public agency itself. A public agency derives its resources from the tax paying public. One can visualize the tax paying public as a group of individuals who can be described in psychoanalytic terms or in political terms, and by political we mean that sometimes the public is willing to put money into some programs and sometimes the public is not. For purposes of this lawsuit it would seem simpler to recognize that public welfare is a public concern subject to the political reality of limited funds. At the present time the public is not engaged in any efforts similar to the one described in *The Angel Makers* in 1803, wherein it was written. "In Manchester an almost promiscuous intercourse prevails in the great mass of people; insomuch that the magistrates attempt to check the increase of bastard children by inflicting stripes and imprisonment on the women who bear above a certain number."[26] Nor does it appear that the public is quite ready to follow

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[25] 54 California Law Review, pp. 357-362 (May 1966).

[26] Barber, J. T., "Tour Throughout South Wales and Monmouthshire, London 1803." Quoted in Gordon Rattray Taylor, *The Angel Makers,* London: Heineman, 1958, page 66.

the satirical suggestion of Jonathan Swift in *A Modest Proposal*: "For preventing the children of poor people in Ireland from being a burden to their parents or country, and for making them beneficial to the public." But the public is not putting large amounts of money in AFDC at the State level in Alabama or at the national level. The Alabama agency, a servant of the public attempting also to serve the poor, does not consider that it can solve all of the problems posed by "informal arrangements." It does not intend either to beat them or to join them. It is attempting to classify them.

II.

The Lower Court's Decree Confuses Submittals to the Department of Health, Education and Welfare of Proposed Legislation Which Related to Classification Based on the Status of Children Born Out of Wedlock With the Efforts of the Appellants to Effectuate a Classification Based on the Situation of the Family, Thus Imputing an Incorrect Intention to the Alabama Agency.

In Section 3 of its Opinion the District Court discusses the submittals of various pending bills to the Department of Health, Education and Welfare which proposals were sent by the Alabama agency. Any time a bill is introduced in the Legislature affecting the program and the State-Federal plan, the Department routinely secures a copy of the bill and sends it to the Department of Health, Education and Welfare to secure official interpretation from the Department if enactment of such measure would result in the State not being in a position to meet any Federal requirements and be in danger of losing Federal matching funds. The Opinion, after discussing the implication of the "Flemming Ruling," states as follows:

> "Even before the 'Flemming Ruling' and as early as April 1956, the then Alabama Commissioner of Welfare and the federal authorities corresponded with some frequency in an effort to determine whether the Alabama policy was in conformity with federal requirements insofar as that policy related to 'suitable family' homes, and in April 1959 the United States Department of Health, Education and Welfare by letter indicated certain substantial defects in legislation that was being proposed for the State of Alabama at that time" (A. 49).

At this point the Alabama agency submits that the Federal District Court misconceived the legal situation with respect to Health, Education and Welfare relating to the status of its plan and "suitable home." All of the correspondence in the record before the District Court pertained to and showed that the Alabama agency plan was not considered out of conformity insofar as it related to its provision for suitable homes. What was questioned was the legislation which was being proposed. The legislation referred to, H. B. 330, 343, S. B. 141 (A. 323-331), were not only Bills the Department was opposing but the Department was sending them to the Department of Health, Education and Welfare for the very purpose of securing an interpretation from them which would result in the Legislature turning down the proposals. The same thing is true about the discussion in the Opinion which states subsequently as follows:

> "In May 1959 a new suitable home policy was submitted to the Department of Health, Education and Welfare. After review by that department, it was declared 'unsuitable,' and then later, in August 1959, still another suitable home policy was sent to the federal authorities for approval, with the same results. This negotiating continued, and in June 1961 the

federal authorities replied to an Alabama submission as follows: * * *" (A. 50).

This statement clearly indicates that the Court confused submission of plan materials and regulations to the Department of Health, Education and Welfare with proposed legislation which was being sent in to the federal agency to secure interpretation in order to advise the Legislature of its conformity with federal requirements. The Opinion again reflects this confusion in the following portion of the Opinion:

> "Still later—and over two years after the 'Flemming Ruling'—the federal authorities, by letter dated June 12, 1963, advised the welfare authorities for the State of Alabama that the 'suitable home' policy bills then being submitted to the Alabama Legislature * * *" (A. 50).

Here again the Opinion confuses the submittal of an agency regulation with the transmitting of a piece of proposed legislation which was not sponsored by the agency and which the agency has traditionally opposed. The three proposals sent in to HEW made welfare benefits available by virtue of a classification based on the status of the child. This type of legislation has always been opposed by the Department of Pensions and Security. It does not reach the problem involved which the substitute parent regulation reaches.[27]

There is no evidence in the record to substantiate that the bills submitted to the Department of Health, Education and Welfare in any way reflected the position of the agency. The Alabama agency now contends that the Court's error in considering this as such has contributed to its misunderstanding as to the way in which the Alabama

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[27] Exhibit 1 contains the part of the argument appellants had urged in the Court below.

agency does classify persons eligible for public assistance in its Aid to Dependent Children program. The classification in the substitute parent policy is a classification based on the situation of the parent, not the child, and the Alabama agency contends that the way in which Alabama makes this classification is a fair and reasonable method which does bear a rational relationship to its Aid to Dependent Children program. The Alabama agency contends that the District Court misconceives the substitute parent policy. The policy relates to the parent and the cohabitation of the parent with a person the Alabama agency calls a substitute parent. This is not a "semantical gimmick". It reaches the public policy problem which is really involved. By this method Alabama does predicate public aid upon the willingness of the persons who look to the State for help to discontinue those relationships which in and of themselves are likely to bring about more children who would require more help from the taxpayers. This is not a penalty upon illegitimate children or any other kind of children but a refusal to make payments to a person or parent who does not wish to stop those types of relationships which are likely to cause more tax burdens. Is this a violation of the Equal Protection concept? Is this an arbitrary or irrational classification? Commissioner King has made it clear that the principle involved is extremely important to those persons who determine what share of money will go into the welfare programs, those members of the legislative body who appropriate money for welfare purposes and who reflect the public interest. Alabama is maintaining that the parent has the primary responsibility to care for any children which are brought into the world.

The agency itself is not judging the morals of the poor but is using cohabitation as the test of eligibility because cohabitation in or outside of marriage is the cause or reason that more children are conceived. If the re-

sponsibility of providing for the increased number of children means that the public must pay for their care, the public has every reason to ask those persons who want the public's help to stop the conditions causing them.

The identification of this public interest as a background for the development of this policy was misunderstood by the lower Court. The precise words which illustrate the confusion of the lower Court occur when the Court stated as follows:

> "The expressed interest of the State of Alabama in not desiring to underwrite financially or approve situations which are generally considered immoral is a laudable one; the State's argument that this regulation is 'a genuine attempt to place the responsibility for taking care of children on persons who bring them into being' is, however, wholly without any realistic or rational basis insofar as this 'substitute father' regulation is concerned. The punishment under the regulation is against needy children, not against the participants in the conduct condemned by the regulation. The State is not without means of attempting to solve the problem which it recognizes, short of depriving children of aid because of immoral conduct of the mother. * * * The State's argument, implied throughout the brief, that the 'substitute father' regulation has a rational basis to the definition under 42 U. S. C., § 606 (a) of dependent child(ren) who are to receive aid under the Act, by reason of the public's concern over the continued procreation of illegitimate children by persons who seem economically unable to care for them, is utterly unrealistic" (A. 56-57).

The Court chooses the language that the punishment under the regulation is against needy children, not against the participants in the conduct condemned by the regu-

lation.[28] The Alabama agency contends that this statement entirely misconceives what an ADC grant to a mother is. This grant involves a regular payment of public funds to a person to assist him (or more generally her) in her primary duty of support to a child or children. Since there is no requirement that the State undertake an Aid to Dependent Children program, it is clear that unless the State agency has received by court Order the custody of a child, the State is not assuming responsibility for the child. The State is agreeing to assume some responsibility to make a payment to help the grantee relative, who is generally the mother, carry out her primary responsibility. As the public becomes more weary of investing funds in this program a state agency must in turn scrutinize its proper role in the situation it is in.

Another fallacy in this portion of the Opinion occurs when the Court writes that the State is not without means of attempting to solve the problem which it recognizes, short of depriving children of aid because of immoral conduct of the mother (A. 57). The regulation is the exact opposite of condemnation. At any time the mother wishes to discontinue the regular relationship of cohabitation, she may under the very terms of the policy itself become eligible again. Whereas Scripturally the great requirement for releasing from condemnation a woman taken in adultery was "go and sin no more,"[29] the Alabama regulation goes considerably further in its

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[28] In the Court below there were occasions when the Alabama agency made reference to children who are born out of wedlock. In using the expression "illegitimate children" the Alabama agency does not intend to place any deprecation upon the children. It is not the children or their presence on this planet which is being classified in this case—only the situation of the parents. The portion of the Alabama agency's Brief, quoted by the Court, does appear to have been out of context of the meaning of the agency and, therefore, that portion is set out in this Brief as Exhibit J.

[29] John 18:11.

no condemnation concept. Thus, the mother is given up to sixty days to present her evidence before her application is disapproved or her case closed in the event she wishes to prove to the agency that she is discontinuing the relationship. Further, in the event the applicant or recipient does not wish "to go and [cohabit] no more" in the words of the regulation "the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately" (A. 428). Just because cohabitation out of wedlock may also carry with it a theological connotation of "sin" and by law be "illegal," the Alabama agency does not consider that it should be prohibited from making reasonable classifications without being accused of making moral judgments. If the parent cannot provide for the children and must call upon the State for help, then the public has every right to ask that she not keep herself in a situation that is likely to produce more tax burdens.[30] The confusion over the ADC plan is shown further in the Court's Opinion illustrated by the following statement:

> "Under the Alabama Support and Desertion Laws (Title 34, §§ 89-104) and the Alabama Paternity Statutes (Title 27, §§ 12(1)-12(9)), the father of children born out of wedlock may be required to support and maintain the children from a financial standpoint. Under Alabama Welfare Agency policies or regulations, if the home situation is considered unsuitable

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[30] The Alabama agency also is not claiming that children of ADC families turn out a lot worse than other children. Actually studies have shown that children in these families have a lower rate of "delinquency" than the national norm and this is also true in Alabama. See "A Demonstration Project—Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Currently Considered Unsuitable" (A. 610).

appropriate action may be taken to place the needy children under the care of a Juvenile Court."

When the lower Court points out that under Alabama's desertion and support laws and paternity statutes that the father of children born out of wedlock may be required to support and maintain the children, the Court does not recognize that the man in the home may not be the natural father. In the situations involving roving arrangements it is not always possible to identify the natural father. The Alabama agency does make every effort to secure support in these instances. This was set out in the public assistance plan which was Plaintiff's Exhibit No. 4, which was before the Court and begins on page 363 of the Appendix. The Court then states: "under Alabama welfare agency policies or regulations, if the home situation is considered unsuitable, appropriate action may be taken to place the needy children under the care of a Juvenile Court."

This portion of the Opinion which shows a clear misunderstanding of "unsuitable" misses the entire concept which the Alabama agency has attempted to develop through the course of these proceedings. The Alabama public assistance plan, approved by the Department of Health, Education and Welfare, contains a section entitled "Criteria for Evaluating Home Conditions Which May Be Hazardous for Children and Procedures to be Followed When These Conditions Exist." This is found on page 458 of the Appendix. "Suitability" is a matter of degree and involves a type of subjective judgment which actually is not useful in discussing what is being done in public assistance and child welfare and areas of responsibility. Child welfare workers do not initiate proceedings in juvenile court simply because in someone's mind the home may be unsuitable. Whereas on one hand a welfare agency may work with a family to assist them in achieving (1) a higher standard of living, (2) principles of organization

which would enable the family to overcome "dependency." (3) assist the family in achieving better health for its members, the type of judgment which would cause a worker or agency to petition the juvenile court for the removal of a child or children from the care and control of parents is a drastic one. It is undertaken only when the agency considers that certain conditions exist which may be hazardous to children and where there is no hope that the family will be able to provide sufficient guardianship. The criteria for evaluating these homes is set out in the Alabama manual in Chapter II, pages 46-49, which begin on page 458 of the Appendix. The commitment of the Alabama agency is to evaluate whether: (1) physical care and protection is within the means of a parent, (2) there are drastic instances of lack of supervision, guidance and discipline, (3) there is exploitation of children, (4) there is protection from degrading conditions, and (5) there is child abuse and physical cruelty. The commitment further states the following:

> *"Procedures to Be Followed When Home Conditions Exist Which May Be Hazardous to Children.*
>
> Unless the welfare of the child calls for a petition to the court, the parent or other grantee relative will be expected to take steps to improve the situation in the home. The counsellor will help the parent or other grantee relative in areas where he can. At the end of three months, a re-evaluation will be made and next steps decided upon. Continue to work with the parent or grantee relative toward further improvement and set a new date for evaluation, not later than three months.
>
> *Procedures to Be Followed When Court Action Is Initiated.*
>
> Sometimes it is necessary for the county department to file a petition for the immediate removal of a child

from his home in an extreme situation, but most often this is not the case.

If the worker and county director agree that a petition should be filed for removal of a child from his home, the record must show what condition of unsuitability exists, what ill effect it has had or is expected to have on the child, what efforts have been made to help the parent improve the situation, the alternate plan which has been made for the child's care and how he is expected to benefit by it" (A. 462-463).

It is clear, therefore, that the use of the terminology surrounding the State plans with respect to hazardous homes, which sometimes are referred to as unsuitable homes, has tended to confuse rather than to help clarify the real purpose of the substitute parent policy.[31] Both the Department of Health, Education and Welfare and the Court below have complicated a rather simple issue by making an assumption that the Alabama agency is making a moral judgment upon the homes of persons living in substitute parent situations and, therefore, immediately withdrawing from the situation because of this moral judgment. This is not only untrue but it is precisely contrary to the required provisions of the Alabama Manual just set out and described—all appearing in the Appendix on pages 458 through 468.

The problem in the Flemming Order which needs clarification in this suit revolves around the following language:

"It is completely inconsistent, however, to declare a home unsuitable for a child to receive assistance and at the same time to remain in the same home exposed to the same environment."

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[31] The position of the Department of Health, Education and Welfare in the lower Court is probably contained in the letter to the District Court from the Justice Department. See Exhibit K.

The Alabama agency submits that it is not "declaring a home unsuitable." It is defining arrangements which are similar in some respects and different in other respects to legal marriages. In describing arrangements which resemble polygamy or polyandry and pointing out that they are not within customary legal concepts "legal", the agency is not declaring the home "unsuitable". If it is altogether unsuitable, the agency must by its own regulations initiate plans which can include court action to make other provisions for any child or children in that home.

The Alabama agency considers a classification based on the relationship of the adults a reasonable classification.

III.

The Court Was Not Correct in Striking Down the Entire Regulation When Only Part of It Applied to Plaintiff and Her Class and Without Giving Any Reason Why the Other Parts Offended a Constitutional Guarantee.

There is significant difference in the types of practices involved in subdivision one of the policy and the other parts of the regulation. The Alabama agency seriously contends that no Order or Decree should be sustained on the basis of a class action whereby the Plaintiff is named as a representative of a class which has marked differences from the other classes of persons affected by the substitute parent regulation.

The injunction in the lower Court applied to everyone removed from the Alabama ADC rolls because of the substitute parent policy. This even included persons who were involved in a true live-in situation. No reason was given why this offended any constitutional guarantee. One of the difficulties a state with a limited program has is how to delineate fair sub-classifications of "informal ar-

rangements". The Alabama agency does consider that the way in which a State arrives at these classifications and definitions reaches to the heart of fair play in public assistance.

Obviously the Plaintiff in this lawsuit represents a smaller group of persons affected by the regulation than the total groups affected by the regulation. The types of groups affected are described as follows: "An able-bodied man, married or single, is considered a substitute father of all the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation."

The Alabama agency urges this Court to permit the type of classification in its public assistance program set out above. The Plaintiff in this lawsuit, by the facts presented in this case, did not belong to this group of persons. By throwing out the entire regulation and ordering the reinstatement of these persons, the Alabama agency contends a court is supporting a policy which in effect is discouraging marriage[32] and a way of life and depriving dependent children of a stability in the home which is not acquired in less formal arrangements.[33]

The Alabama agency submits that such "able-bodied man" is "there" when he lives in the home and cohabits with the mother and such an arrangement should not be

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[32] The agency has found that a number of persons in families who had been removed from the ADC rolls because of the substitute parent regulation had married after aid was terminated. See Exhibit E.

[33] The Project Director, Miss Clara Mae Lloyd, did state that whereas some of the relationships found in informal arrangements were good and healthy as in formal marriage situations "it is not the ideal, because we would hope they would be more permanent; * * *" (A. 122).

favored for public assistance purposes over ones in which the mother is legally married to the man.[34]

The second group includes the able-bodied man if: (2) "though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother." Some in this group approximate the type of practice known as polygamy or polyandry.

What constitutes marriage is defined in different ways in different societies. In some, a man and woman are considered husband and wife if they have had sexual relations, whether or not the relationship has been sanctioned by the couple's kinship or a marriage payment made. In others, bride wealth must be paid in full before establishing the conjugal relationship, and a marriage is not completed, or confirmed, until one or more children of the union have been weaned. Monogyny is found in all African societies, but polygyny is found in most. In the Lele of the Kasai district of the Belgian Congo a specialized form of polyandry, or the marriage of one woman to two or more men, sometimes occurs concurrently with the predominating polygynous marriage, and this may also be true of other societies.[35]

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[34] There are no doubt many millions of words spoken on the subject of marriage and its strengthening effect on the family. The Alabama agency considers the late Archbishop William Temple's statements of the reasons therefor persuasive and appropriate:

> "But the inherently social and indeed 'familial' character of man finds its first expression in the human family. This is the initial form of man's social life, and its preservation and security is the first principle of social welfare." * * * "But any ordering of society which impairs or destroys the stability of the family stands condemned on that account alone;" * * * "The aim within the nation must be to create a harmony of stable and economically secure family units;" *Christianity and Social Order*, S. C. M. Press Ltd., pages 54, 55, 56.

[35] Ottenberg, Phoebe, and Simon, et al. *Cultures and Societies of Africa* (New York: Random House, 1960), pages 20-33.

The whole system of obligations and rights which constitute marriage is in each society laid down by tradition. There are many variations of all this as well as the ways in which the rules are enforced. But it must be added that in no other subject of anthropology is our knowledge so limited in the dynamic problems of why rules are kept, how they are enforced, and how they are evaded or partially broken.[36] It may be that the terms polygyny and polyandry or roving arrangement also describes the practices engaged in by "hippie" cults. One description of this situation in Dallas County, the home of Plaintiff, is found in the testimony of the County Director in that County (A. 185-186).

Formalized polygyny in the American society has not been upheld.[37] Is there any reason why similar informal practices should be favored in public assistance? Is there any reason why these practices cannot be classified and identified so that they will not be favored over monogynous practices? The mere fact that such practices may be said to go on among wealthier members of society gives no sanction for actually favoring them. The Alabama agency submits that it is still the law in all the jurisdictions in this country that one man have one mate at a time. Children, however, with respect to parent-child relationships do not have this singularity thrust upon them by the law. They are still free to live with a mother and a stepfather or a father and a stepmother or any other arrangements which the adult world finds in keeping with blood lines or convenient, "suitable" or "in the best interest of the child."

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[36] Malinowski, Bronislaw, *Sex, Culture and Myth* (Harcourt, Brace and Gould, Inc., New York, 1962), pages 16-17.

[37] *Cannon v. United States* (1885), 116 U. S. 55, 6 S. Ct. 278; *Church of Jesus Christ of L. D. S. v. United States* (1889), 136 U. S. 1, 10 S. Ct. 792, 34 L. Ed. 478; *Davis v. Beason* (1889), 133 U. S. 333, 10 S. Ct. 299, 33 L. Ed. 637.

The Alabama agency does not consider favoring informal polygyny or polyandry in its public assistance program a useful method of helping children find environmental stability. This agency does not have the resources to meet some of the real problems[38] said to be at the root of the reasons that ADC mothers will get in these situations and the situations set out in the next aspect of the policy. If the Plaintiff in this case was cohabiting regularly with an able-bodied man in her own home even though he had another mate, it would appear that the second part of the regulation would apply. It would also appear that this is the only group the court order should have reached.

The third part of the policy provides that an able-bodied man, married or single, is considered a substitute father of all the children of the applicant/recipient mother living in her home, if * * * "(3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above."

It would appear that the primary purpose of this portion of the regulation is to keep a mother from continuing to receive public aid merely by showing that the relationship takes place outside the home only. The agency contends that the tax paying public does not want the mother to continue to receive public aid unless she agrees to help keep herself away from situations which are

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[38] In describing the behavioral aspects of persons who are caught up in informal living arrangements, one study points out that in casework practices virtually nothing has been done to understand and change their behavior. It has been stated that this problem behavior among all races will continue until efforts are made to grapple with the complex individual and cultural problems of which illegitimacy is only a symptom. Reilly, Charles T., and Margaret M. Pembroke, "Chicago's ADC Families—Their Characteristics and Problems," the Loyola University School of Social Work, 1960, pages 45-50.

likely to cause more children who will need more public aid.

Following the third part of the regulation there appears the following language: "pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above." This, of course, is the best evidence that there has been cohabiting. It puts the burden on the ADC mother to show that the cohabitation has stopped and the methods for showing that it has stopped are set out in the rest of the regulation (A. 428).[39]

The primary purpose of the entire regulation is to place the responsibility for support of the family on men who enjoy the privileges of a husband instead of placing such responsibility on the State. In view of this purpose it can be seen how all parts of the regulation are related to identifying the man who assumes the role of husband when there has not been a formal marriage.

The Court below did not spell out Constitutional guarantees which other parts of the policy, other than that affecting Plaintiff and her class, offended. The Alabama agency considers the decision and the Court Order defective in this respect and urges that clarification be given if other aspects of the regulation are offensive to any Constitutional guarantees.

Are there any Constitutional guarantees which have been or are likely to be offended by application of any aspect of the regulation? The Alabama agency considers that public assistance applicants and recipients are entitled to the following:

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[39] The new 1967 public assistance amendments to the Social Security Act require a plan of family and child welfare services as may be necessary in the light of home conditions and other needs. This includes the further objective of preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life. P. L. 90-248, 81 Stat. 878.

1. The right to have any regulation applied reasonably.

2. The right to receive the money payment and services if eligible.

3. The right to every procedural safeguard provided by statute and regulation and to confidentiality and equity of treatment.

The Alabama agency does not consider that public assistance applicants and recipients have the following rights under the present Federal-State program:

1. The recognition of anything like a "property right" in public assistance.

2. Any right which is inconsistent with the right of the State to abolish any given public assistance category.

If there is no vested right to cohabit out of wedlock,[40] is there a right of privacy which protects the Plaintiff in this case and others similarly situated from revealing information relating to their cohabitation practices, if any, for the purpose of establishing ADC eligibility? The Alabama agency believes that everything really hinges on the rationality of the rule. If the rule is rational then it should be clear that the State can as a condition precedent to granting aid require the Plaintiff and others similarly situated to reveal necessary facts for the establishment of eligibility. This is the primary responsibility of the applicant. Under the present public assistance system, the State is charged not only with determining the financial condition of persons in order to find out if they are eligible to receive a public assistance grant, but also the State is charged with the responsibility of rehabili-

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[40] In *Griswold v. Connecticut*, 381 U. S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510, the right protected belonged to *married* persons.

tation and other services as far as practicable under the conditions in such State. Just as one does not go to a physician and ask for healing then refuse to tell the physician facts which would assist the physician to heal, it would seem unreasonable for an applicant or recipient in public assistance to claim some right to withhold information relating to facts the agency would need to know to accomplish its statutory purpose of establishing eligibility or rehabilitation. Any employee in the agency who divulges confidential information contrary to statute would be subject to criminal prosecution. Title 49, Section 17 (7), Code of Alabama 1940, as recompiled 1958.

If the rule is reasonable, the Alabama agency contends that the case worker has every right to secure facts relating to the matter of financial eligibility and information necessary to rehabilitate. Whereas on one hand the State wishes to be in a position to assist persons in the period of time they are dependent upon the State for help, the agency at the same time is charged with the responsibility to "help such parent or relative to retain capability to the maximum self-support and personal independence * * * " By the same token the persons who accept a grant are expected to cooperate in the State's efforts to make them personally independent of the State.

The Alabama agency respectfully submits that it cannot accomplish any of the purposes and aims of the Social Security Act in its own State statutes and fail to ask questions relating to matters which most people do frequently consider private zones. Unfortunately, these private zones are likely to be the very zones which stand in the way of achieving personal independence. The Social Security Act does require the agency to have safeguards relating to confidentiality However, the public assistance titles of the Social Security Act do not grant

any right to public assistance applicants and recipients to remain dependent.

The Alabama agency also contends that there is no constitutional prohibition against middle class morality even though it is the agency's contention that the substitute parent policy primarily sets out a definition concerning the responsibility of people and is not judging their morals. The mere fact that the regulation may also reflect middle class notions of family support does not make it unconstitutional. It may, according to some authorities, be a little un-Freudian,[41] but the Alabama agency does not believe that that defect should necessarily be fatal.

In discussing the unique aspects of public assistance which limit the scope of privacy which any individual can have and be declared eligible Professors Handler and Roseheim have written as follows:

> "It is precisely the unusual circumstance to which public assistance is oriented in its proclaimed concern to relieve individual need. Simply because no legislative determination of social policy can cover all contingencies, the design and administration of public assistance necessarily concentrate on the unique personal circumstances of the recipients. To fulfill the commendable goal of relief of a person's suffering requires an intimate knowledge of his appetites and needs. *The very approach of public assistance demands varying degrees of exposure of the applicants' lives and affairs to those who administer it.*" (Emphasis supplied.)[42]

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[41] "The Children of Leviathan: Psychoanalytic Speculations Concerning Welfare Law and Punitive Sanctions." 54 Cal. L. R. 357 (May 1966).

[42] "Privacy in Welfare: Public Assistance and Juvenile Justice," Vol. 31 Law and Contemporary Problems, p. 379 (1966).

It is also clear that there can be no property right to public assistance under the present State and Federal statutes. In his article entitled *The New Property* Professor Reich writes as follows:

> "If the individual is to survive in a collective society, he must have protection against its ruthless pressures. There must be sanctuaries or enclaves where no majority can reach. To shelter the solitary human spirit does not merely make possible the fulfillment of individuals; it also gives society the power to change, to grow, and to regenerate, and hence to endure. These were the objects which property sought to achieve, and can no longer achieve. The challenge of the future will be to construct, for the society that is coming, institutions and laws to carry on this work. Just as the Homestead Act was a deliberate effort to foster individual values at an earlier time, so we must try to build an economic basis for liberty today —a Homestead Act for rootless twentieth century man. We must create a new property."[43]

So long as the Professor uses the future tense and agrees that such right does not exist right now in public assistance, the State agency must agree at least that everyone needs sanctuaries or enclaves where no majority can reach. We do not know if the still dews of quietness, the coolness and the balm, can ever be found in the realm of property or anything temporal which human law purports to govern. The Alabama agency does not believe that these desirable green pastures can be achieved under the law as it now exists. Nevertheless, under our system of government it seems unlikely that the Chairmen and Members of the Ways and Means Committee of the United States Congress and their counterparts in State legisla-

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[43] 73 Yale Law Journal 733, 787 (April 1964).

tures would ipso facto see that the necessary appropriations were forthcoming to make such dreams realities. At this moment in our society it does not appear that it is unconstitutional either to be poor or not to be poor, nor does it appear that there are any vested rights in penury or poverty.[44]

Does the regulation in placing the burden of proof upon the mother to show that the relationship is terminated and that she is entitled to benefits violate any due process concepts by violating the mother's right against self-incrimination? When a mother goes to a State prosecuting attorney and asks him to help her get support under Alabama's paternity statute, the Alabama agency knows of no case in which the prosecuting attorney has then prosecuted her under the adultery or fornication statutes. Nevertheless, in order to secure help from the State prosecuting attorney, who by statute is the correct official to assist the mother in obtaining support,[45] she is laying bare the facts which could make her subject to prosecution for fornication or adultery. The Plaintiff has not shown that there has been or is any threat of prosecution because of information she has given the welfare agency. Obviously this case is not ripe for a decision relating to self-incrimination. *Poe v. Ullman* (1961), 367 U. S. 497, 81 S. Ct. 1752, 6 L. Ed. 2d 989.

There is one important difference in discussing the matters with a public welfare worker. In arriving at the question of her eligibility, the mother is protected in her application for public assistance by state statutes requir-

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[44] *Edwards v. California* (1941), 314 U. S. 160, 176, 62 S. Ct. 164, 86 L. Ed. 119; *Smith v. King*, 277 F. Supp. 31; *Ward v. State*, 170 So. 2d 500 (Alabama Court of Appeals application for rehearing overruled and cert. denied January 7, 1965, 170 So. 2d 504).

[45] Title 27, § 12 (3), Code of Alabama 1940, recompiled 1958.

ing confidentiality.[46] The Alabama agency contends that confidentiality requirements concerning information about welfare recipients relates to the requirement of giving necessary information to establish eligibility in a way analogous to that in which immunity provisions enable the compelling of testimony which would otherwise be privileged under the Fifth Amendment to the United States Constitution. See 58 Am. Jur., Witnesses, § 84 et seq.

Does the giving of the information to a caseworker place an unfair set of choices unrelated to ADC upon the client? The Alabama agency does not know the answer to ending practices which result in bringing into the world more children to parents who cannot care for them. But agreeing with the practices and favoring them in public assistance practices does not seem to be the answer. We do contend that nothing is so futile as the unhampered satisfaction of sporadic impulses. This is the sort of existence which leads through boredom to suicide.[47] Does a public assistance agency exercise responsible leadership by favoring freedom to exercise unhampered satisfaction of sporadic impulses? It has been said that freedom is a great word but like other great words is often superficially understood. To those who have enough of this world's goods the claim to freedom means "Leave us alone" but to those who have not enough it means "Give us a chance." The important difference of interpretation rests on a single understanding of freedom as absence of compulsion or restraint. However, if that is all the word means, freedom and futility are likely to be so frequently combined as to seem inseparable. "Freedom so far as it is a treasure must be freedom

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[46] Title 49, § 17 (7) (8), Code of Alabama 1940, recompiled 1958. See also regulation protecting confidential information (A. 866-870).

[47] William Temple, *ibid.*, p. 60.

for something as well as freedom from something. . . . Law exists to preserve and extend real freedom.''[48]

In the ADC process the presumption is that the mother can make good choices and use the money which is being granted for the benefit of her children.[49] It is presumed that she has the ability to carry out this purpose; without this presumption the State would, under its present commitment, need to initiate other plans for the children.

The entire process between the caseworker and the client involves trust. It has long been a Federal requirement and a basic practice in public assistance that the primary source of information regarding eligibility is the client. This basic concept in public assistance is set out in the Federal Handbook of Public Assistance Administration,[50] and because of the necessity to understand the primary way the agency reaches a decision about a case, this is set out in full:

> ''a. The requirement that a plan provide that applicants and recipients will be relied upon as the primary source of information regarding their initial and continued claim for assistance does not relieve the agency of the responsibility to recognize the differing capacities of applicants and recipients to discharge their responsibilities to the agency. Some can provide or obtain needed information after the agency explains what information is needed; others will need specific directions to sources of information;

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48 William Temple, *ibid.*, p. 61.

49 Alabama does not make "protective" public assistance payments except to guardians and duly appointed legal representatives both appointed pursuant to statute.

50 Part IV, Section 2230.5a—For new Federal requirements pertaining to Determination of Eligibility and Furnishing Assistance, see Exhibit L.

others may want, or have to rely on, the agency to obtain the information for them.

If the individual is unable to participate in the determination of eligibility, because of such circumstances as physical or mental disability, inability to speak English, or other difficulties, the agency is obliged to take measures to provide him the assistance and services for which he is eligible.

Reliance on applicants and recipients as the primary source of information will enable the agency to determine initial or continuing eligibility in a large percentage of cases on the basis of information provided by the individual, supplemented if necessary by information from public records. Such reliance on the individual includes placing responsibility on recipients for notifying the agency, on the basis of instructions understood by them, about changes in their situations that may affect the amount of assistance to which they are entitled or may terminate their eligibility.

When available information is inconclusive, reliance on the applicant or recipient as the primary source of information requires the agency to explain to the individual, in writing if necessary, (1) what questions remain and how he can resolve or help to resolve them, and (2) the necessity for resolving the questions if eligibility is to be established or continued. If the individual is reluctant or unwilling to help resolve the question or permit the agency to do so, the agency is responsible for considering carefully with him from deciding unnecessarily or unwisely to withdraw from the program when he is eligible, and to discharge the agency's responsibility for evaluating whether facts had previously been presented correctly. (See IV-2600 re Fraud.)

If the individual is unwilling to have the agency seek verifying information, the agency may not be able

to determine eligibility and thus have no recourse but to deny or terminate assistance. In such instance, the individual should be told that he has the right to re-apply at any time."

It is, therefore, necessary that a presumption of trust exist and it is necessary that the agency maintain a vigilance and determination that in this process and in the necessity for achieving the aims of the Social Security Act that the agency does not yield to the "ever present risk of turning a Good Samaritan into a 'pursuing Fury.' "[51] The Alabama agency suggests that rather than yield to the current temptation[52] to visualize personnel in public welfare agencies as "pursuing Furies," that this Court realistically consider that the public assistance personnel in our society have some similarities and some problems in common with the members of the judicial profession. For example, the caseworker, as well as the administrator or supervisor, must arrive at a determination and conclusion of what the facts are and apply the law in the case which would be the public assistance regulations. The problem is that the caseworker like a member of the judicial profession must say eventually "yes or no," not "yes and no". Any time a firm "no" is said resulting in termination of a grant, there is always the possibility and the probability that the client will not like it. If eligibility is determined incorrectly and a person receives public assistance which under the regulations he is not entitled to the public does not like it.

Certainly one of the aims of casework service is to help the mother escape from her own sense of emotional need so that she can be about the constant task of making good provision for her children. If this Court believes the testi-

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[51] 31 Law and Contemporary Problems, p. 411, citing Charles Dickens, *Our Mutual Friend*, 506 (Oxford, 1952).

[52] Increasingly legal literature and other literature visualize the welfare system and individuals involved in it as "punitive."

mony of the caseworker, the Plaintiff would be considered to fall in category two of the regulation. In granting a service the grantor does need to be aware of when the granting of the service (money and service) tends to perpetuate the wrong set of values or even foster dependency itself. To give a mother a choice in this type of situation does not militate against any constitutionally guaranteed freedom. If this choice is not given, the regulation is not being followed. In the testimony of the Plaintiff, whose testimony on this point is in conflict with that of the worker, if this Court believes the Plaintiff, the regulation would not have been applied correctly and could have been subject to correction by an administrative appeal.

IV.

Plaintiffs Should Be Required to Exhaust Their Administrative Remedies Prior to Bringing Action in Court.

The Alabama agency does not consider that *Damico v. California,* 388 U. S. ..., 88 S. Ct. 526 ... L. Ed. 2d ... (December 18, 1967) has completely settled this question. Since the particulars of the California administrative appeal provision were not set out in the Opinion, it is not clear why the administrative remedy would not have been adequate. The Alabama agency appeal procedures were promulgated pursuant to the Federal Social Security Act. The new regulations promulgated by the Federal agency thereunder are set out as Exhibit M hereto. These administrative appeal procedures provide for prompt hearing in the county where the claimant lives. One of the functions of the administrative appeal hearing is to assist the claimant in establishing eligibility and not merely to review the prior action with which he is dissatisfied. The claimant is the only party to the hearing and by regulation is not "opposed" at the hearing by either the State

or County Departments of Pensions and Security (A. 856). If a regulation had been incorrectly applied or if information became available which had not previously been considered in determining the client's eligibility, this would provide a speedy remedy to get these issues settled. Although the client may be represented by counsel it is not necessary, and under the agency practice the Hearing Officer has as one of his functions to assist the client in establishing eligibility by bringing out any evidence which would tend to establish eligibility. The Alabama agency would hope that attention could be given to the intent of the provisions of the Federal Social Security Act, 42 U. S. C., § 201, et seq., as it relates to the Alabama appeal procedure recognizing the requirement that the plan must provide that Aid to Families with Dependent Children shall be furnished with reasonable promptness to all eligible individuals, and must provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid is denied or is not acted upon with reasonable promptness. In Alabama, by agency plan, the hearing must be held within 50 days of the time the appeal is taken and the decision must be reached within three weeks after the hearing. Under the new federal requirements (Exhibit M) requiring retroactive payments it would appear that individual recipients would have a prompt method of actually getting a payment if eligible. In the event this Court should later receive a large number of cases[53] involving public assistance problems it would appear that the exhaustion of the State administrative remedies would be a service to the Court and a fairness to the State agency. This way any questions of correct application of policy to facts would be

[53] Since one of the new services offered the poor is legal services available in many communities through projects set up by the Office of Economic Opportunity, and the favorite Defendants are Welfare Departments, this Court should have many cases involving public assistance problems.

settled at the administrative level. Particularly in class action where lower Courts would be reluctant to grant a temporary injunction in a class action involving thousands of persons, as was true in this case, the better procedure, it would appear, would call for exhaustion of administrative remedies. The Alabama agency re-emphasizes its point that there has been no time in the State-Federal working relationship created by Congress when discrimination because of race in the determination of eligibility for public assistance grants has been permitted. It would, therefore, appear that the Civil Rights remedies would have relevance only where it can be shown that such rights have actually been violated. Otherwise, it would be sufficient merely to allege a violation under a Civil Rights Act in order to avoid an administrative appeal.

V.

The District Court Decree Did Not Provide Proper Safeguards for Confidentiality Concerning the List of Persons Required to Be Filed in the District Court.

Pursuant to Federal statute and requirement the Alabama Legislature has enacted the following provisions of law relating to confidentiality:

> "It shall be the duty and responsibility of the state department to * * * (8) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files, and communications of the state and county departments. The use of such records, papers, files, and communications by any other agency or department of government shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. All case records of recipients of assistance shall be considered confidential

and not public writings and shall not be subject to public use or inspection. At each session of the circuit court, however, the director of public welfare in each county shall, upon request, submit to the grand jury a list of persons receiving public assistance in the county or division of the county covered by the court, and the grand jury may examine the list of public assistance recipients within the county and make such investigation in regard thereto as may be necessary to vertify the accuracy of the same. It shall be the duty of the presiding judge to charge the grand jury at each session that it may make such investigation. The information obtained from either the state or county welfare departments by the grand juries in investigations shall be subject to the same safeguards with respect to the confidential nature of such information as prevails with respect to such records and information while in the custody of the county or state welfare departments. Confidential information concerning applicants and recipients shall not be used or disclosed for any purposes not directly connected with the administration of public assistance, or the investigation thereof by grand juries. Any violation of this provision shall be a misdemeanor and punishable accordingly.'' Title 49, Section 17 (7), Code of Alabama 1940, recompiled 1958.

One reason the Alabama agency does not consider problems relating to rights of privacy and rights against self-incrimination is because of the Federal requirement and responsibility of the State agency to keep private matters confidential. The Alabama agency considers that the only instance in which information about public assistance clients can be divulged is in connection with the administration of public assistance itself or with the permission of the client. Confidentiality of information furnished to grand juries is protected by statute and regulation (A.

846-850). Lists containing names of recipients and amounts paid to them are required to be filed with Probate Judges (A. 846-850). Those lists contain the names of all public assistance recipients (excepted from public view are records pertaining to children placed for adoption). It is quite a different matter to make public a list of a particular segment of the public assistance rolls who are affected by a specific policy. Such a list would not serve the purpose for which the required total list is designed. The list involved in this case identifies persons whose public assistance grants have been affected because of their cohabitation out of wedlock.

On January 31, 1968, following the vacation of the Stay Order by Justice Hugo L. Black, the Alabama agency filed a Motion with the lower Court and among other things moved the Court "to issue an appropriate order to protect the list of the names and addresses of persons restored to the Alabama Aid to Dependent Children rolls from public disclosure and to protect the confidential nature of the list." The lower Court did not grant the relief sought. Attorneys for Appellants have been advised orally by members of the District Court that the list will be for the use of the Court only; however, the Alabama agency urges that failure to issue protective orders affirmatively guarding the confidential nature of the list of names and addresses of these persons violates the spirit and letter of the confidentiality provisions of the Social Security Act and corresponding Alabama statutes and regulations. The Alabama agency has no knowledge nor does it appear anywhere in this lawsuit that any of the persons involved in this class action other than the Plaintiff has by any act or failure to act given permission for the possible exposure of their names. It is hard to conceive of a more sensitive type of case or one in which confidentiality would be more essential. If class actions are to be permitted in public welfare cases, it would appear appro-

priate for this Court to honor the intent of the Social Security Act and state statutes by requiring lower Courts to cooperate in protecting the rights of these helpless individuals caught up in class actions without any knowledge that their names will be turned over to the Court without protective orders.

CONCLUSION.

For the reasons above stated, it is respectfully submitted that the Order and Decree of the District Court for the Middle District of Alabama, Northern Division, in this case should be reversed.

Respectfully submitted,

.....

MacDONALD GALLION,
Attorney General,

.....

MRS. MARY LEE STAPP,
Assistant Attorney General,

.....

MRS. CAROL F. MILLER,
Assistant Attorney General,
Room 578, Administrative Building,
64 North Union Street,
Montgomery, Alabama 36104,
Attorneys for Appellants.

EXHIBIT A TO APPELLANTS' BRIEF.

Supreme Court of the United States.

No. ..., October Term, 19....

Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama, et al., Appellants,

v.

Mrs. Sylvester Smith, Individually and on Behalf of Her Minor Children.

Order.

Upon Consideration of the application of counsel for appellants, and of the opposition thereto,

It Is Ordered that the execution and enforcement of the decree of the U. S. District Court for the Middle District of Alabama be, and the same is hereby, stayed pending the docketing of the appeal within thirty days from this date. Should the appeal be so docketed, this stay is to remain in effect pending the Court's consideration of such appeal. In the event the judgment is affirmed or the appeal is dismissed, this stay shall expire automatically. Should the Court note probable jurisdiction or postpone consideration of the jurisdictional aspect until a hearing on the merits, this stay is to remain in effect pending the issuance of the judgment of this Court.

/s/ Hugo L. Black,
Associate Justice of the Supreme Court of the United States.

Dated this 27th day of November, 1967.

EXHIBIT B TO APPELLANTS' BRIEF.

Supreme Court of the United States.

No. 949, October Term, 1967.

Reuben K. King, Commissioner of the State Department of Pensions and Security, Alabama, et al., Appellants,

vs.

Sylvester Smith, Individually and on Behalf of Her Minor Children, Etc., et al.

Order.

Upon Consideration of the application of counsel for the appellees and of the opposition of counsel for the appellants,

It Is Ordered that my stay order of November 27, 1967 be, and the same is hereby, vacated for the reasons stated in the attached opinion.

/s/ Hugo L. Black,
Associate Justice of the Supreme Court of the United States.

Dated this 29th day of January, 1968.

Supreme Court of the United States.

King v. Smith.

No. 949.—In re Vacation of Stay Issued on November 27, 1967.

[January 29, 1968.]

Mr. Justice Black:

This case is now before me on the appellee's motion to vacate the stay of judgment which I granted on November 27, 1967. The court below held unconstitutional a regulation of the Alabama Department of Pensions and Security which makes certain children ineligible for welfare assistance whenever their mother is cohabiting with a man other than her husband, a so-called "substitute father." ... F. Supp. ... (D. C. M. D. Ala. 1967). The District Court's decree ordered immediate restoration to the welfare rolls of all children who had been disqualified solely because of the "substitute father" regulation. Since the State's arguments in support of the regulation were not frivolous, and since the decree would require the State to pay out substantial sums of money which could never be recovered if the judgment is ultimately reversed, I granted the State's application for a stay. Probable jurisdiction over the appeal was noted by this Court on January 22, 1968. ... U. S. ....

A recent congressional amendment (81 Stat. 821, 894) to the Social Security Act (42 U. S. C. § 601 *et seq.* (1964)), effective January 2, 1968, significantly alters the considerations bearing on the desirability of a stay pending our final judgment, and I have concluded that in light of this factor, not present when I considered this case in November, the stay entered at that time should be vacated. The new amendment places a ceiling on the number of dependent children for whom federal sharing

in state assistance programs is available. Although this ceiling will not go into effect until July 1, 1968, a crucial figure in determining the level of the ceiling is the average number of children for whom monthly payments are made during the first three months of this year. In a memorandum filed at my request, the Solicitor General of the United States has stated that the Department of Health, Education, and Welfare reads the new statute to require actual payments during January, February, and March to all children who are to be included in the computation of this ceiling. If the judgment below is ultimately affirmed and if the Government's reading of the new law is not rejected in a proper lawsuit, this Court's order to restore appellees and others similarly situated to the welfare rolls could not, therefore, affect the number used to compute the ceiling.

The impact of the stay on welfare recipients in Alabama is thus considerably more serious now than it was prior to enactment of the new statute. If the judgment below is affirmed, appellees and the class they represent, a group estimated by the State to total 15,000 to 20,000 persons, will be restored to the welfare rolls for the future, but federal contributions will remain fixed in relation to the past level. The State of Alabama will then be forced either to reduce the level of payments to *all* children or to approve a great increase in the state and local funds available, so that the previous welfare allowances, ordinarily supported up to 80% or more by federal funds, could be granted to the new recipients without any federal support. Prior to enactment of the statute the stay meant only that in the event of ultimate affirmance, relief for appellees and the class they represent would have been postponed several months. Under the new statute, however, the stay now means in addition that total payments available for *all* dependent children may be reduced and that this reduction may remain

in effect for an indefinite period. Under these circumstances, the possibility of injury to the State from the judgment below would appear to be more than offset by the possibility under the stay of decreased federal welfare assistance to all dependent children within the State for an indefinite period. Thus, the stay is vacated.

It is so ordered.

EXHIBIT C TO APPELLANTS' BRIEF.

In the United States District Court for the Middle District of Alabama, Northern Division.

Mrs. Sylvester Smith, et al.,
Plaintiffs,
vs.
Ruben K. King, et al.,
Defendants.
Civil Action No. 2495-N.

Motion.

(Filed Jan. 31, 1968.)

Attorneys for Defendants were notified by telephone on January 30, 1968, by the office of the Clerk of the United States Supreme Court that the Order entered by Justice Hugo L. Black staying the mandate of this Court in the above styled cause has been vacated. The Department of Pensions and Security has, therefore, immediately taken action to follow the decree of this Court in recertifying cases. The Department is attempting to have the cases recertified effective for the month of January 1968, if possible under State and Federal regulations, in order not to lose any Federal funds available for these families under the ADC "freeze" provision of the 1967 Social Security Amendment Act, P. L. 90-248, 81 Stat. 821, 894. According to the decree of this Court entered November 8, 1967, Defendant King was directed to compile and file with the Clerk of this Court within not less than 90 days from the date of the Order a list setting forth the names and addresses of the individuals who have been restored to the Alabama Aid to Dependent Children rolls pursuant to the Opinion and Decree of this Court. Defendants move the Court for an order granting Defendant King thirty

days from the date of the order vacating the stay in which to compile and present to this Court the list of persons restored to the Alabama Aid to Dependent Children rolls pursuant to the Opinion and Decree of the Court.

Defendants further move the Court to issue an appropriate order to protect the list of the names and addresses of persons restored to the Alabama Aid to Dependent Children rolls from public disclosure and to protect the confidential nature of the list.

Respectfully submitted,

/s/ MacDonald Gallion,
MacDonald Gallion,
Attorney General,

/s/ Mary Lee Stapp,
Mrs. Mary Lee Stapp,
Assistant Attorney General,

/s/ Carol F. Miller,
Mrs. Carol F. Miller,
Assistant Attorney General,

Attorneys for Defendants.

Proof of Service.

I, Mrs. Mary Lee Stapp, one of the Attorneys for Appellants and a Member of the Bar of the Supreme Court of the United States, hereby certify that on the 31st day of January, 1968, I served copies of the foregoing Motion on the several parties hereto as follows:

1. On the United States, by mailing a copy thereof in a duly addressed envelope with air mail postage prepaid, to Honorable Erwin N. Griswold, Solicitor General of the United States, Department of Justice, Washington, D. C. 20530; to Honorable Ramsey Clark, Attorney General of

the United States, Department of Justice, Washington, D. C. 20530; to Walter Gorman, Esquire, Department of Justice, Washington, D. C. 20530; and by mailing a copy thereof in a duly addressed envelope with first class postage prepaid, to Honorable Ben Hardeman, United States Attorney for the Middle District of Alabama, Federal Building, Montgomery, Alabama 36104.

2. On the Appellees by mailing copies thereof to the respective attorneys of record as follows: A copy thereof in a duly addressed envelope with air mail postage prepaid, to Martin Garbus, Esquire, 156 5th Avenue, New York, New York 10010; and by mailing a copy thereof in a duly addressed envelope with first class postage prepaid to Charles S. Conley, Esquire, 315 South Bainbridge, Montgomery, Alabama 36104; and Alvin J. Bronstein, Esquire, 603 North Farish Street, Jackson, Mississippi 39202.

/s/ Mary Lee Stapp,
Mrs. Mary Lee Stapp,
Assistant Attorney General of Alabama,
Administrative Building,
64 North Union Street,
Montgomery, Alabama 36104.

EXHIBIT D TO APPELLANTS' BRIEF.

In the United States District Court for the Middle District of Alabama, Northern Division.

Mrs. Sylvester Smith, Individually, and on Behalf of Her Minor Children, Ida Elizabeth Smith, Ernestine Smith, Willie Louis Smith and Willie James Smith and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated, Plaintiffs, vs. Ruben K. King, Commissioner of the State Department of Pensions and Security, State of Alabama, et al., Defendants.	Civil Action No. 2495-N.

Order.

(Filed Feb. 1, 1968.)

This Court entered an Order and Decree in this case on November 8, 1967. On November 27, 1967, execution and enforcement of the Decree was stayed by an Order entered by a Justice of the United States Supreme Court. The said stay order has been vacated on January 29, 1968, and the Order and Decree of this Court of November 8, 1967, is again in effect.

The defendants, Ruben K. King, Commissioner of the State Department of Pensions and Security, et al., have filed with this Court a motion representing to the Court:

"The Department of Pensions and Security has, therefore, immediately [after entry of the said vacation

order of January 29, 1968] taken action to follow the decree of this Court in recertifying cases. The Department is attempting to have the cases recertified effective for the month of January, 1968, if possible under State and Federal regulations, in order not to lose any Federal funds available for these families under the ADC 'freeze' provision of the 1967 Social Security Amendment Act, P. L. 90-248, 81 Stat. 821, 894."

The defendants request that defendant Ruben K. King be given additional time in which to comply with paragraph (4) of the Decree of this Court of November 8, 1967, which required that he compile and file with the Clerk of this Court within not less than 90 days from November 8, 1967, a list setting forth the names and addresses of the individuals who have been restored to the Alabama Aid to Dependent Children rolls pursuant to the Opinion and Decree of this Court.

The defendant Ruben K. King is granted additional time up to and including February 26, 1968, to comply with paragraph (4) of the Decree of this Court dated November 8, 1967.

This Order is entered by and with the agreement of each member of this panel.

Done, this the 1st day of February, 1969.

John Godbold,
United States Circuit Judge.

EXHIBIT E TO APPELLANTS' BRIEF.

State of Alabama

Department of Pensions and Security
Montgomery

Cases Closed and Applications Rejected Because of Substitute Parent Policy Initiated in July 1964*

	Number of Families	Estimated Number of Children[1]	Estimated Number of Recipients[2]
Total	5,626	18,622	23,348
Cases Closed	3,707	12,270	15,384
Applications Rejected	1,919	6,352	7,964

Prepared by: Bureau of Research and Statistics

February 29, 1968

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* Based on information submitted by county departments of pensions and security.

[1] Estimate based on an average of 3.31 children per family.

[2] Estimate based on an average of 4.15 recipients per family.

State of Alabama

Department of Pensions and Security
Montgomery

Cases Closed and Applications Rejected Because of Substitute Parent Policy Classified by Later Action Taken*

	Number of Families	Estimated Number of Children	Estimated Number of Recipients
Total	5,626	18,622	23,348
Approved	2,434	8,057	10,101
Denied or found to be ineligible[1]	857	2,837	3,557
Referred to another county	78	258	324
Moved or unable to locate	574	1,900	2,382
Did not wish to apply	313	1,036	1,299
Reopened and later terminated	152	503	631
Children included in another ADC case..	95	314	394
Application taken but pending final clearance	356	1,178	1,477
Action pending[2]	767	2,539	3,183

Prepared by: Bureau of Research and Statistics

February 29, 1968

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* Based on information submitted by county departments of pensions and security.

1 Many of these had married or secured employment and were able to provide for their families.

2 Agency has written many of these requesting that they come in or contact the Agency.

MEMORANDUM

February 29, 1968

To: Mr. Ruben K. King, Commissioner

From: Margaret Jordan, Director
Bureau of Research and Statistics

Subject: *Applications and Cases Affected by the Substitute Parent Policy*

As you know the County Directors have submitted to the State Office a listing of *Applications and Cases Affected by the Substitute Parent Policy* with information with reference to action taken pursuant to the Court Order of November 8 and following the vacation of the Stay by the Supreme Court. The summary analysis is attached.

The analysis gives additional emphasis to the following points:—

(1) The Aid to Dependent Children caseload is not a static caseload—the composition of the caseload is constantly changing as is reflected by Table 1 which indicates that 6,907 families were added during the past year and 6,642 were closed during the year. Also, Table 2 indicates that many Aid to Dependent Children Families receive aid for a comparatively short period of time. We were of course familiar with these characteristics of the ADC caseload as a whole; however, the report indicates that the same characteristics were apparently also typical of this segment of the caseload which was affected by the Substitute Parent Policy. This report also serves to remind us that a large portion of the total population is on the move and that for many people you don't go back and find them at the same spot and in exactly the same situation as you left them three or more years ago.

(2) The analysis of these cases affected by the Substitute Parent Policy also indicates that the purpose of the policy was fulfilled in that it encouraged families to utilize any available resources and to become independent wherever possible. The County Directors reported that many of these people had secured employment and many had married and were now able to provide for their families. The report indicates that out of a total of 5,626 applications rejected and cases closed because of the policy, 2,434 have been reinstated and approved for payment, and 356 applications are in the process of being cleared. The report also gives information with reference to the present status and action taken with reference to the other applications and cases which were affected by the Substitute Parent Policy.

(3) Again with reference to the fact that the ADC caseload is not a static caseload as long as this policy is not in effect it is believed that the caseload will continue to increase as with a less restrictive program a higher proportion of these who apply will be eligible for assistance than were eligible during the past several years. This means, of course, that the limited funds which are available would have to be used to provide for a larger number of families and children.

TABLE 1

Applications and Cases Handled By County Departments of Pensions and Security

October 1, 1966 — September 30, 1967

	Total	Old Age Pensions	Aid to Blind	Aid to Dependent Children[1]	Aid to Children in Foster Care	Aid to Children Receiving Day Care	Aid to Permanently and Totally Disabled	Temporary Aid	Medical Assistance for the Aged	Service Only[2]
APPLICATIONS:										
Pending from preceding year	6,167	2,471	71	1,798	81	5	1,584	107	50	xx
Received during year	43,623	19,706	486	11,483	1,518	583	8,612	519	716	xx
Total during year	49,790	22,177	557	13,281	1,599	588	10,196	626	766	xx
Disposed of during year	43,868	20,201	444	11,394	1,599	584	8,484	420	742	xx
Pending at end of year	5,922	1,976	113	1,887	0	4	1,712	206	24	xx
CASES APPROVED:										
Continued from preceding year	157,082	112,488	1,873	17,192	2,199	474	15,191	97	277	7,291
Added during year	33,465	14,019	245	6,907	1,520	563	3,387	365	367	6,092
Total during year	190,547	126,507	2,118	24,099	3,719	1,037	18,578	462	644	13,383
Closed during year	31,180	12,568	255	6,642	1,367	443	3,066	335	493	6,011
Continued to next year	159,367	113,939	1,863	17,457	2,352	594	15,512	127	151	7,372

[1] Figures shown represent number of families.

[2] Families who do not receive financial assistance but who are in need of casework services.

TABLE 2

NUMBER OF FAMILIES RECEIVING AID TO DEPENDENT CHILDREN BY LENGTH OF TIME SINCE MOST RECENT OPENING FOR ADC AND BY NUMBER OF OPENINGS FOR ADC PRIOR TO DATE OF MOST RECENT OPENING

DECEMBER 1961

LENGTH OF TIME SINCE MOST RECENT OPENING 1/	Total Families		NUMBER OF ADC OPENINGS PRIOR TO DATE OF MOST RECENT OPENING				
	Number	Percent	No Previous Openings	One Previous Opening	Two Previous Openings	Three or more Previous Openings	Unknown
TOTAL	21,336	100.0%	14,805	4,636	1,185	524	186
Less than 6 months	2,640	12.4	1,709	593	169	135	34
6 months but less than 1 year	2,385	11.2	1,387	745	169	84	0
1 year but less than 2	3,147	14.7	2,064	728	270	68	17
2 years but less than 3	2,538	11.9	1,658	626	169	51	34
3 years but less than 4	2,064	9.7	1,387	456	119	68	34
4 years but less than 5	2,030	9.5	1,371	507	102	50	0
5 years but less than 7	2,471	11.6	1,929	372	102	51	17
7 years but less than 10	2,166	10.1	1,743	355	68	0	0
10 years or more	1,895	8.9	1,557	254	17	17	50

1/ The median length of time since most recent opening for ADC was 3.0 years.

Dallas County

Department of Pensions and Security
P. O. Box 366
Selma, Alabama 36701

February 20, 1968

Mrs. Mary Lee Stapp
Legal Advisor
State Department of
Pensions and Security
64 North Union Street
Montgomery, Alabama

Dear Mrs. Stapp:

Mrs. Wilkinson requested that I make a survey of the cases closed or denied for the substitute father policy since July 1964. We thought that you might be interested in seeing the results of this survey.

We are enclosing the survey, as well as the complete list of cases approved since November 8, 1967, that had previously been denied or closed. We are also sending a copy of our control list.

If you need any additional information, do not hesitate to contact us.

Sincerely,

/s/ Jacquelyn Stancil,
Mrs. Jacquelyn Stancil,
Pension Counsellor.

Approved:

/s/ Augusta L. Wilkinson,
Mrs. Clinton S. Wilkinson, Sr., ACSW,
Director.

JS/dhb

Cases Closed in Dallas County For Substitute Father Policy:

Action Taken:

Recertified	7/64 — 10/67	48
Recertified	11/67 — 1/31/68	11
Recertified	2/1/68 — Present	56
Recertified in another home		* 4
	Total Recertified	—120
Pending	Total Pending	— 8

Not to Be Recertified

Reason:

Married	18
Did not wish to reapply	15
Were not eligible because of sufficient income to meet need	15
Did not meet eligibility requirements other than need	8
Moved out of State	6
Moved out of County	3
Unable to locate	1
Total Not Recertified	— 66
Grand Total	—194

Application Denied Because of Substitute Father Policy

Certified	7/64 — 10/67	5
Certified	11/67 — 1/30/68	3
Certified	2/1/68 — Present	20
	Total Certified	— 28
Pending	Total Pending	— 1

Not to Be Certified

Reason:

Married	6
Did not wish to apply	2
Left County	1
Income sufficient to meet need	4
Did not meet eligibility requirements other than need	1
Unable to locate	1
Total	— 15
Grand Total	— 44

* Two of these were recertified prior to November, 1967, and two were recertified after November, 1967.

EXHIBIT F TO APPELLANTS' BRIEF.

(Outline of Equal Protection Issues in Cases Cited by the Court Below.)

In *Morey v. Doud*, supra, the State statute permitted American Express to sell money orders, but prohibited other private companies from doing so. This was a statutory exception of a particular business entity and not of a generic category. Dissent, *Justice Black*: the Legislative discrimination between a company of known solvency and others of unknown responsibility "can hardly be called 'invidious.'" The general provisions of the Constitution should not be used to restrict narrowly State power over domestic economic affairs. Dissent, *Justices Frankfurter and Harlan*: The Legislature should be allowed to look at practical facts; even if putting American Express Company in a separate category may at some future time no longer be valid, then would be the time to strike down the legislation. In *Tigner v. Texas*, 310 U. S. 141, 84 L. Ed. 1124, 60 S. Ct. 879, 130 A. L. R. 1321 (1939) the Texas anti-trust law exempted agricultural products from its operation. Defendant was convicted of fixing price of beer and attacked the statute as violating Equal Protection. The Supreme Court upheld the statute, pointing out the purpose to prevent monopolies—a fear which had not attached to agricultural interests; it was reasonable for the Legislature to classify agriculture and industry differently for this purpose; the distinction must be practical, not abstract or theoretical. In *Gulf, Colorado & Santa Fe Ry. Co. v. Ellis*, 165 U. S. 150, 155, 17 S. Ct. 255, 41 L. Ed. 666 (1897) the legislation involved required railroad corporations to pay attorney's fees to successful litigants against the railroad. The Court held this violated equal protection, since not all debtors were treated alike and the classification did not bear any relation to the

business of railroad transportation. Three Justices dissented, saying it was a matter of costs, which are creatures of statute and should not be interfered with. In *Erb v. Morasch,* 177 U. S. 584, 20 S. Ct. 819, 44 L. Ed. 897, cited in *Morey v. Doud, supra,* it was held not unreasonable to except, by name, one railroad from the requirement that trains go through the city at six miles per hour. The excepted one ran in outer parts of town, the tracks were fenced; all the factual circumstances justified a different rule (classification). In *McLaughlin v. Florida,* 379 U. S. 184, 85 S. Ct. 283, 13 L. Ed. 2d 222 (1964) the defendants were convicted under statute prohibiting an interracial couple cohabiting. Held that the statute "trenches upon the constitutionally protected freedom from invidious official discrimination based on race." It is a strong policy of the Equal Protection Clause to eliminate racial discrimination from official sources in the States. In *Hernandez v. Texas,* 347 U. S. 475, 74 S. Ct. 667, 98 L. Ed. 866 (1954) the defendant was an American of Mexican descent and he contended that persons of his class of persons were systematically excluded from juries. The conviction was reversed. The Court held that the question of whether such a separate class existed was one of fact and defendant had established that it did exist in his community. Exclusion of a group is prohibited by Fourteenth Amendment. (no dissent) In *Atchison, T. & S. F. R. Co. v. Matthews,* 174 U. S. 96, 19 S. Ct. 609, 612-613, 43 L. Ed. 909, the Kansas State statutes required railroads to pay damages and attorney's fees upon proof that the operation of the railroad caused fire damages to plaintiff. The Court held statute valid against the improper classification argument, because its purpose was to make railroads prevent fire from escaping trains. The purpose was not to make railroads pay their debts (cf. Gulf etc. v. Sanis[illegible]). The Court said prevention of fire comes under the police power of a state, while enforcement of debt payment does not,

hence the different result in the classifications involved. Four Justices dissented, pointing out that if a state required a duty of a Railroad, such as fencing, and the Railroad violated its duty, then a penalty could be affixed (payable either to the State or to injured party); but this isn't the case—here the railroad is penalized if it contests a case in court; this is not equal protection. In *American Sugar Ref. Co. v. Louisiana,* 179 U. S. 89, 21 S. Ct. 43, 45 L. Ed. 102 (1900), the classification was for tax purposes. The Louisiana statute taxed sugar refineries other than those operated by persons who grew and refined their own product. It was held to be a valid distinction—i. e. an encouragement to agriculture. The right to sell is inherent in the right to produce; refined sugar is a natural and ultimate product of the farm, as distinguished from a product manufactured by addition of other ingredients. Case was cited in which tax on retailers of wines was not applicable to persons who grew grapes and sold wine as product of his own. In *Southern R. Co. v. Greene,* 216 U. S. 400, 417, 30 S. Ct. 287, 291, 54 L. Ed. 536 (1909), the question was whether an out of State railroad corporation doing business in Alabama could be required to pay a tax for the privilege of doing business within the State, which tax was not imposed on like domestic corporations? The Court said "the equal protection of the laws means subjection to equal laws, applying alike to all in the same situation" and held that the classification is in violation of Equal Protection, as it puts different burden on foreign railroad corporations doing the same kind of business as domestic ones. The distinction Alabama tried to base the classification on was that a domestic corporation paid tax for privilege of being a corporation, while a foreign one paid for privilege of doing business within the State. In *Lindsley v. Natural Carbonic Gas Co.,* 220 U. S. 61, 31 S. Ct. 337, 55 L. Ed. 369 (1910), the New York statute prohibited pumping mineral waters for the purpose of

selling carbonic gas therefrom separately and also prohibited pumping from wells penetrating the rock. The classification was upheld and the Court said some reasonable basis of fact for the distinction could be conceived. In *Royster Guano Co. v. Virginia,* 253 U. S. 412, 40 S. Ct. 560, 64 L. Ed. 989 (1919), the State of Virginia imposed state income tax on all earnings of a corporation, including that earned within and out of the State; corporations organized in Virginia but doing business *only* out of State were exempt from the income tax. The classification was held arbitrary; and it was held that income derived by Virginia corporations from business done out of State rests on the same basis, whether or not the corporation does business within the State also. The two Justices dissenting saw a conceivable reason for differentiation between the two classes of domestic corporations. In *Air-Way Elec. Appl. Corp. v. Day,* 266 U. S. 71, 45 S. Ct. 12, 69 L. Ed. 169 (1924), the statute levied a tax on foreign corporations on the basis of the number of authorized non-par value shares; this was held an unreasonable classification with no reasonable relation to value of the privilege for which imposed. In *Louisville Gas & Elec. Co. v. Coltman,* 277 U. S. 32, 48 S. Ct. 423, 72 L. Ed. 770 (1927), the Kentucky statute levied a tax on all mortgages running more than five years. It was held arbitrary and violative of Equal Protection. Four Justices dissented. In *Hartford Steam Boiler Inspection & Ins. Co. v. Harrison,* 301 U. S. 459, 57 S. Ct. 838, 81 L. Ed. 1223 (1936), the Georgia statute permitting mutual insurance companies to act through salaried resident employees, but prohibiting stock insurance companies from doing so was held violative of Equal Protection under Fourteenth Amendment, as unreasonable classification in that the method of compensating agents bore no reasonable relation to economy or efficiency. Four Justices dissented. In *Skinner v. Oklahoma,* 316 U. S. 535, 62 S. Ct. 1110, 86 L. Ed. 1655 (1941), the Okla-

homa criminal sterilization law was held unconstitutional under Equal Protection Clause; if a person was convicted of embezzlement he was immune to the law, but if convicted three times of larceny was subject to it. The different crimes were not shown to indicate inheritable characteristics. In *Kotch v. Board of River Port Pilot Comrs.*, 330 U. S. 552, 67 S. Ct. 910, 91 L. Ed. 1093 (1946), the Court upheld the practice of the Pilots' Association of taking in only their friends and relatives to be river pilots. The Court said pilotage is a unique institution and the practice does not violate equal protection. Four Justices dissented, saying it amounts to designating members of certain families as only ones eligible to become pilots; consanguinity is an arbitrary test. In *Railway Express Agency, Inc. v. New York,* 336 U. S. 106, 69 S. Ct. 463, 93 L. Ed. 533 (1948), a New York traffic regulation prohibited advertising vehicles; notices could be on delivery vehicles as long as they were not used merely or mainly for advertising. This was held not to be a violation of Equal Protection. Practical considerations based on experience must be used to determine whether a classification has a relation to the purpose for which it was made, rather than upon theoretical inconsistencies. In *Griffin v. Illinois,* 351 U. S. 12, 76 S. Ct. 585, 100 L. Ed. 891 (1955), it was held to be a violation of Equal Protection and Due Process to deny a defendant an appellate review because he could not afford to pay for a transcript, while granting such review to all other defendants. The Court stated "In criminal trials a State can no more discriminate on account of poverty than on account of religion, race, or color." Four Justices dissented. In *Allied Stores of Ohio, Inc. v. Bowers,* 358 U. S. 522, 79 S. Ct. 437, 3 L. Ed. 2d 480 (1958), an Ohio tax statute exempted from taxation goods belonging to a nonresident if held in storage in Ohio; residents' goods in storage were taxable. This was held to be valid in

that it rests upon a conceivable state of facts constituting a distinction. The purpose was to encourage location in the State of industries; to serve this purpose by exempting them does not violate Equal Protection. In *Central R. Co. v. Pennsylvania,* 370 U. S. 607, 82 S. Ct. 1297, 8 L. Ed. 2d 720 (1961), the Pennsylvania statute differentiated for tax purposes between railroads having tracks only within the State and railroads whose tracks were both within and out of the State. Several bases for such classification were considered (the Court gave some examples of possible reasons). Equal Protection was a minor consideration in this case. In *Douglas v. California,* 372 U. S. 353, 83 S. Ct. 814, 9 L. Ed. 2d 811 (1962), the indigent defendants charged with and convicted of felonies were denied counsel on appeal; this was held to be an invidious discrimination. "There can be no equal justice where the kind of an appeal a man enjoys 'depends on the amount of money he has.'" citing *Griffin v. Illinois,* supra. Three Justices dissented. In *Rinaldi v. Yeager,* 384 U. S. 305, 86 S. Ct. 1497, 16 L. Ed. 2d 577 (1965), the defendant appealed in forma pauperis and the county withheld his prisoner's pay to pay for the transcript. Under New Jersey statute only those confined in State institutions were required to make such reimbursement. Supreme Court held this a violation of Equal Protection. One Justice dissented. The majority said that since this reimbursement was not required of all those convicted, i. e. not to those on probation, or suspended sentence or those sentenced only to pay a fine, it did not apply equally to all in the same classification. State argued that the administrative time and cost were too great to try to collect from anyone except those in State institution, where the pay could be withheld. This argument held invalid. In a California criminal case, *Anders v. California,* 386 U. S. 738 (1967) the question was the extent to which appointed counsel

must go to prosecute an appeal. The attorney determined there was no merit in the appeal and so advised court and defendant. The defendant filed his own brief on appeal and lost; six years later he brought habeas corpus proceedings, claiming deprivation of counsel on appeal. The Supreme Court reversed the conviction; counsel on appeal must be in the role of advocate, not just amicus curiae. Three Justices dissented. In another California criminal case, *Swenson v. Bosler,* 386 U. S. 258, 87 S. Ct. 996, 18 L. Ed. 2d 33 (1967), an indigent defendant did not have counsel on appeal; trial counsel filed notice of appeal and motion for new trial, specifying issues. Conviction was reversed by Court of Appeals and this decision was affirmed by the Supreme Court. An indigent defendant has the right to counsel on appeal whether or not he requests counsel. The Court followed the *Douglas,* supra, decision. *McGowan v. Maryland,* 366 U. S. 420, 81 S. Ct. 1101, 6 L. Ed. 2d 393 (1960), is a criminal case involving sale of merchandise on Sunday in violation of Maryland statute. Court upheld the statute against Equal Protection, Due Process and establishment of religious arguments. The classification question concerned allowing certain retailers in one county (those operating bathing beaches and amusement parks) to operate on Sunday, while other retailers there could not. The Legislature could find valid reasons for the distinctions—the commodities exempted and the places relate to the people's ability to enjoy and benefit from their day of rest. (Latter part from concurring opinion of Justice Frankfurter). Justice Douglas dissented. On the Equal Protection argument the Court said "The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective." The Legislature could reasonably find that Sunday sale of exempted items enhanced the health or recreation of people relaxing on Sunday. The distinc-

tions are not shown by the record to be invidious; nor was it shown that there were not local customs which rationally call for the classification. Also the Court said it found no invidious discrimination in treating people in different counties differently; territorial uniformity not required. *Two Guys from Harrison—Allentown, Inc. v. McGinley,* 366 U. S. 582, 81 S. Ct. 1135, 6 L. Ed. 2d 551 (1960), is a criminal case involving Pennsylvania Sunday closing laws. Same questions and same holding as in McGowan case; same concurring opinion and dissent.

EXHIBIT G TO APPELLANTS' BRIEF.

Department of Health, Education, and Welfare
Social and Rehabilitation Service
Washington, D. C. 20201

January 22, 1968

TO STATE AGENCIES ADMINISTERING APPROVED PUBLIC ASSISTANCE PLANS

Subject: Limitation on Federal Sharing in AFDC—Public Law 90-248)

The Social Security Amendments of 1967 (P. L. 90-248) was approved by the President on January 2, 1968.

We are preparing general interpretative material with respect to the implementation of P. L. 90-248 which we hope to be able to distribute in preliminary form prior to the meeting in Washington, D. C., with State officials on February 19 and 20, 1968.

Since the States will need to start immediately setting up a system for making the computations required under the so-called AFDC "freeze" provision, we wanted you to have the benefit of our current thinking on this subject. The enclosed material explains how the provision works and sets forth the method which will be acceptable for making the computations. In addition, we have included our preliminary and still tentative interpretation of the substantive aspect of the provision including some of the options open to States in complying with it.

Sincerely,

/s/ Mary E. Switzer,
Mary E. Switzer,
Administrator.

Enclosure

DRAFT.

January 22, 1968

Implementation of the AFDC Freeze.

The effect of the AFDC "freeze", which becomes effective July 1, 1968, is to limit the number of children who are under age 18 and receiving AFDC because of absence of a parent, with respect to whom Federal payments may be made.

For each State, the average monthly number of children under age 18 receiving AFDC because of absence of a parent (for reasons other than the death of such parent) during the January 1968 quarter will set the maximum for Federal matching for the July 1968 and October 1968 quarters. To the extent that the average monthly number of such children for the July quarter or the October quarter is greater than for the January quarter, Federal financial participation will not be available.

To determine the maximum number of such children whose payments are subject to Federal financial participation during the calendar year 1969, the 1968 proportion (i. e., the proportion of all children under 18 in the State on January 1, 1968 represented by the average monthly number under 18 receiving aid, for the reason specified, in the months of January, February, and March 1968) will be applied to the child population under 18 estimated for January 1, 1969. If the child population increases between January 1968 and January 1969, then the number who may be aided with Federal sharing also will be larger in 1969. For each of the four quarters in calendar 1969, States must determine the average monthly number of such children under 18 who are aided, and exclude from the Federal claim the number that exceeds the maximum number determined by applying the 1968 rate to the estimated child population on January 1, 1969.

States in which the number of eligible children exceeds the number in whose assistance the Federal Government will share, must make a decision, either:

a. To provide assistance in accordance with the current State plan, with the State paying the total assistance costs for the "excess children", or

b. To use some device to keep the costs of the program to the State at approximately the level which assures States that they will not need to increase State expenditures.

For States which choose alternative b:

1. States may not maintain waiting lists, or otherwise fail to follow existing provisions of law that everyone who considers himself eligible may apply and, if he is eligible, may receive assistance promptly.

2. States may not discontinue assistance for the excess cases.

States may, however:

1. Reduce the level of assistance for all AFDC children. Thus, the cost to the State is so reduced, in providing assistance to *all* eligible children, that the State will not be spending more in State funds than formerly.

2. Introduce new or additional eligibility requirements so as to reduce the number of children eligible and, thus, not exceed the ceiling. Any new eligibility provision must meet the test of reasonableness of classification so that persons in like circumstances will continue to be treated alike. Thus, the new eligibility provision would need to be applicable to all children, not just to the "absent from the home" group. Eligibility provisions which meet this test of objectivity include those which attempt to make

ineligible those children who are less in need than others. Thus, the amount of resources which may be held may be reduced, legally responsible relatives may be required to help more than before, and the like.

In adopting such approaches, States should be aware (a) of provisions in the Social Security Amendments of 1967 which may tend to make more individuals eligible, such as the requirements for earnings exemptions, effective July 1, 1969, and for updating AFDC assistance standards and payment maximums, effective July 1, 1969, and ~~(b)~~ that reduction of any assistance payments or number of eligible individuals will result in decreased Federal financial participation and failure to achieve the objectives of the original State plan.

General procedures to be followed.—To obtain the data needed to determine the proportion of children under 18 on January 1, 1968, represented by the average monthly number of children of the specified type aided in the months of January, February, and March, 1968, will require a special study, inasmuch as no State now maintains this information. A study of a sample of cases will serve. For subsequent months, beginning in July 1968, a system must be devised for obtaining, on a continuing basis, information on the number of children of the specified type on whose behalf payments are made. Requirements will be developed and sent to you later. The research consultant of the Social and Rehabilitation Service in each regional office will assist States in planning and executing the sample study of records for January-March 1968. The Assistance Payments Administration will make arrangements to obtain the necessary population estimates from the Bureau of the Census.

The number of children removed from your claim for Federal matching and the amount of assistance given to

them will be reported in the quarterly statement of expenditures, beginning July 1968, on Form FS-142.9-Schedule t-l, in items 1c and 20, respectively. Since the law does not specify *which* children and payments are to be excluded from the Federal claim, subsequent material will provide guidelines as to the method or methods that may be used to identify in your fiscal records the recipient count so excluded and the payments therefore not computable for Federal funds.

EXHIBIT H TO APPELLANTS' BRIEF

"One day my luncheon companion, a sociological writer from Washington, began the conversation by saying: 'What I'd like to do in this article is explore the fluid contexts of the interrelations between the various power centers involved in some of the more pressing parallel concepts of public welfare.'

'Could you be a little more specific?' I asked.

'Well, all these things are coming to fruition. There's a lot going on. But we haven't yet had the kind of public dialogue in-depth which encourages all the interrelated interests, I mean *all* of them, toward some sort of genuine political fluidity.'

'Fluidity of what?'

'Fluidity of *thought*—thought that mirrors the fluctuating bases of this generation. Up till now we've been positive without being futuristic, negative without being retrospective. Your publication would be doing a great service to provide real insights, both tangential and core insights, into the nature of these politico-social, if I may call them so, oscillations.'

'*What* oscillations?' I asked. By now I was getting perturbed, and the clam chowder had not even arrived.

'Look,' my companion said, 'let me put it this way. A student of Confucius once pointed to a flag and said, "See how that flag flaps in the breeze?" and Confucius replied, "Only the mind flaps." The structural changes under the social surfaces in this country are not the realities that are flapping. It's *we*, and we must move on 'that assumption, theoretical or otherwise.'

'It's obvious *something's* flapping.' I said."

North Toward Home, Willie Morris, Houghton Miflin Company, 1967, Boston, 373.

EXHIBIT I TO APPELLANTS' BRIEF.

(Excerpt From Alabama Agency's Brief in Court Below.)

"The statement beginning on page 20 of Plaintiffs' brief concerning the suitable home policy in effect prior to July 1964 appears to be entirely incorrect and apparently the status of the policies themselves and the interpretation of them has been completely misunderstood as well as the agency's position with respect to certain bills which were introduced in the legislature. The history of Alabama's suitable home policy with respect to the question of federal conformity is set out to some extent in Exhibits 1, 2, and 3 submitted during the taking of Mr. Steininger's deposition. There has never been any question of federal conformity with respect to the policy submitted by the Alabama welfare agency nor has there ever been any serious question raised with respect to continued receipt of federal funds or with respect to the policies submitted prior to July 1964. The questions pertaining to federal conformity were evident in the various legislative proposals which the Alabama agency transmitted to the federal agency. Any time any bill is introduced by any legislator which purports to affect the public assistance program, the Alabama state agency immediately transmits such proposal to the federal agency and requests an official interpretation concerning the question of federal conformity. None of the bills in Exhibit 3 were proposals of the Alabama agency. These were legislative proposals by individual legislators. Whereas these proposals might have reflected the views and ideas of certain segments of the public, it was never the position of the Alabama agency that these proposals should be enacted into law. None of the proposals contained in these bills was ever enacted into law."

EXHIBIT J TO APPELLANTS' BRIEF.

(Excerpt From Alabama Agency's Brief in Court Below.)

THE MORALS OF THE POOR SUITABLE HOME—FLEMING ORDER.

Since the days of the Elizabethan poor laws there has been a diminishing requirement in most countries of the world for the poor to be good, pure, and virtuous as a condition precedent to the receipt of public aid. Even though there may always be a hidden desire in the breast of many persons to reward only the "worthy poor,"* the public assistance titles of the Social Security Act and Alabama law make short shrift of the idea that public funds can be distributed only to the worthy in Alabama's public assistance programs. Objective methods of determining eligibility are required in any given category. (See particularly Title 49, § 17 (6), Code of Alabama 1940, as recompiled 1958.) A state does not have to elect to set up a program in any category, but if it does, the state must clearly set up objective standards for determining eligibility within the categories selected. There is no question that in and of itself the morality of the poor cannot be a condition for granting of public assistance. A person can be a dishonest congenital liar, but if his actual situation under law and agency regulations permits him to be eligible for public assistance, his unattractive

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* Eliza's father in *My Fair Lady* poignantly illustrates this in the later Victorian Age as he describes himself as one of the "undeserving poor" and later when confronted with the fact that he has never given Eliza (his illegitimate child) anything, he counters "I gave her the sunsets over Hyde Park." (cf. Zepeda v. Zepeda, 41 Ill. App. 2d 240 (1963), and the plight of the adulterine bastard. The Court in the course of its opinion points out that: ". . . laws cannot temper the cruelty of those who have the epithet 'bastard' nor ease the bitterness in him who hears it, knowing it to be true.")

morals cannot bar him from public assistance eligibility. Yet, in one sense, every state in the Union requires and expects a certain type of morality in this State and Federal program as a part of the method of establishing eligibility. For example, an applicant is expected to tell the truth about his income and resources. The public not only expects correct establishment of eligibility but also the public does not want public funds going to persons who do not need public funds to live on. The state files civil suits, when necessary, to recover funds from persons who have received public assistance for which they were ineligible. In addition, in Alabama, Title 49, § 17 (21), Code of Alabama 1940, as recompiled 1958, provides as follows:

> "Penalty for false representation.—Any person who by means of a false statement knowing it to be false, or by willful misrepresentation, impersonation or other fraudulent device obtains or attempts to obtain or aids or abets any person in obtaining a public assistance grant to which such person is not entitled or a larger amount of grant than that to which he is justly entitled, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars and may be sentenced to hard labor for the county for not exceeding twelve months, or both. (1951, p. 1223, § 20, effective Oct. 1, 1951.)"

The substitute parent policy indirectly requires the refraining from cohabiting in the instance of unmarried persons to establish eligibility. However, regulating the morals of the poor or "supervising the sex life of the poor." is not the purpose of the policy—the purpose is economic and it is to keep the State from underwriting and approving situations which tend to cause or permit illegitimacy and the bringing of children into the world

to families who depend upon the State to care for them and to shift more of the burden of supporting these children on the individuals who are responsible for their procreation, and to shift the burden of determining the meaning of the relationship involving cohabitation to the grantee relative.

One of the objectionable features of Plaintiffs' brief is their insistence that the substitute parent policy is an effort to terminate aid on the basis of the suitability of the home. This, to some degree, assumes that a particular regulation is aimed at the regulation of the morals of the poor. (See also 15 J. Pub. L. 349.) In this case this is an assertion made without any substantial evidence or proof of any sort. In fact the contrary is true.

Defendants submit that the professional social worker's attitude in the Alabama agency relating to these children can best be discovered in Plaintiffs' Exhibit 24. This intensive study made in Dallas County and completed September 30, 1964, shows the ways in which the professional social worker would like to have the necessary money and staff to deal with the situation of needy children who are born in homes where there is the possibility and probability that children will continue to be born out of wedlock as well as other factors relating to "suitability of the home." This study shows that there are so many more problems involved than just the matter of legitimacy that the entire focus of the casework responsibility is primarily centered on finding meaningful ways of helping families find ways out of "unsuitable" situations and helping them to achieve a status of self-help. Defendants do not state that this project comprises the basis for the substitute parent policy. Actually Defendant King testified that he would like to see a much more liberal program undertaken on behalf of all ADC children. One of the liberalizations would certainly include the broadened types of services

described and undertaken in the demonstration project which the agency would like to see made available to every child.

Defendants contend that they are not passing moral judgment on these "live-in" arrangements although there seems to be a belief that such a policy in and of itself forecloses aid because of morals. If the home condition is altogether unsuitable under Albama agency policy, the department pursuant to its own regulations must make appropriate referrals to the Juvenile Courts so that the Juvenile Courts can determine if these children fall under the jurisdiction of such Court as dependent or neglected children who are in particular need of the care and protection of the State in a manner provided by state law. Foster home care or institutional care could be provided if the home is judicially determined "unsuitable" and the child or children determined to be under "insufficient guardianship." See Chapter 7, Title 13, Code of Alabama 1940, as recompiled 1958, and Exhibit 43, Alabama Manual, Part I, II-45, et seq. See especially II-49 which states in part:

> "If the worker and county director agree that a petition should be filed for removal of a child from his home, the record must show what condition of unsuitability exists, what ill effect it has had or is expected to have on the child, what efforts have been made to help the parent improve the situation, the alternate plan which has been made for the child's care and how he is is expected to benefit by it."

EXHIBIT K TO APPELLANTS' BRIEF.

Department of Justice
Washington
20530

Honorable Frank M. Johnson, Jr.
Chief Judge
United States District Court for the
Middle District of Alabama
Post Office Box 35
Montgomery, Alabama 36101

Re: Mrs. Sylvester Smith, et al. v
Rubeh K. King, et al—United
States, amicus curiae and Party

Civil Action No. 2495-N.

Dear Judge Johnson:

This letter is written in reference to our correspondence of April 26, 1967 concerning the captioned matter.

In light of the fact that the Constitutionality of the State regulation has been challenged by private litigants, we do not feel that it would be appropriate for the Government to offer an opinion relating to these issues. However, facts and legal arguments dealing with the Department of Health, Education and Welfare's policies under, and administration of, the Social Security Act (42 U. S. C. 601, et seq.), have been brought before the court and, therefore, the following comments are submitted in the hope of aiding the court, to the extent that Federal policy is relevant to the resolution of this case.

From a reading of the brief of both the plaintiff and the defendant, we believe that some confusion may exist con-

cerning the "labels" attached to various policies involved in this proceeding. This problem probably arises from the differences between the terminology adopted by the State and that in use by the Federal Government with respect to the phrase "suitable home". The Department of Health, Education, and Welfare uses the term "suitable home policy" to refer to an eligibility policy which is based upon the behavior or moral conduct of a parent (most usually the mother). Technically, the application of such a policy would result in finding a recipient ineligible for assistance because the mother engaged in conduct which is generally considered to be immoral.

The policy which the Alabama State agency had adopted and which it refers to as a "suitable home" policy pertains not to eligibility, but rather to situations in which the case worker should provide services of various types to strengthen family life by improving home conditions, and sets forth steps which the case worker should take in certain instances to protect children who are in a bad home situation. See Brief for defendants, page 42. As stated above, the State policy deals with services, not eligibility.

The case before this Court appears to arise from the application of a "suitable home policy," in the Federal sense of that phrase. The plaintiff has been found ineligible because of her conduct. From the allegations, this litigation does not appear to raise an element of the "true" substitute father situation, that is, a man in the house who acts like a father (regardless of whether he may be a good or a bad father.) Here, the facts suggest that the man involved has his own family and lives with them; also there is some evidence that he may visit the house for the purpose of maintaining a sexual relationship with the mother. This case, therefore, presents a question of "suitable home" (conduct of the parent) rather than "substitute father" policy.

We believe this distinction is important, because once the true nature of the eligibility condition is disclosed, the Federal Law and Policy is quite clear in this area. Both the Federal Administering agency and, later, the Congress, have clearly taken a position prohibiting a policy which does nothing more than declare a child ineligible for assistance because the home is found unsuitable. This was first announced by Secretary Flemming in 1961. That interpretation of the Social Security Act was supported later in that same year when Congress amended the Social Security Act by adding what is presently the first portion of Section 404 (b) (42 U. S. C. 602 (b)). The Alabama agency was explicitly informed by the Bureau of Family Services within the Department of Health, Education and Welfare that the so-called "Substitute Father" regulation was "not in conformity with Section 404 (b) of the Social Security Act" and the Flemming regulation insofar as eligibility was conditioned upon the conduct of the mother. (Letter from Steininger, dated December 11, 1964, P. Ex. 1.)

The Department will be available in the event the Court determines that we might be of further assistance in this case.

Sincerely,

/s/ John Doar,
John Doar,
Assistant Attorney General,
Civil Rights Division.

cc: Honorable John Godbold
United States Circuit Judge
Montgomery, Alabama

Honorable Virgil Pitman
United States District Judge
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Honorable McDonald Gallion
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EXHIBIT L TO APPELLANTS' BRIEF.

H. T. No. 139

Handbook of Public Assistance Administration

Part IV Eligibility, Assistance, and Services

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2000-2999 Application, Determination of Eligibility, and Furnishing Assistance 2/8/68

2000. *Application, Determination of Eligibility, and Furnishing Assistance*

2100. *Provisions of the Act*

(a) The second section of titles I, IV, X, XIV, and XVI of the Social Security Act requires that a State plan must provide:

"such methods of administration . . . as are found by the Secretary to be necessary for the proper and efficient operation of the plan;" (Secs. 2 (a) (5) (A), 402 (a) (5) (A), 1002 (a) (5) (A), 1402 (a) (5) (A), and 1602 (a) (5) (A)).

"that all individuals wishing to make application for [assistance] shall have opportunity to do so, and that [assistance] shall be furnished with reasonable promptness to all eligible individuals;" (Secs. 2 (a) (8), 402 (a) (10), 1002 (a) (11), 1402 (a) (10), and 1602 (a) (8)).

(b) Sections 2 (a) (10) (B), 2 (a) (11) (D), and 1602 (a) (13) specify that a State plan under title I or XVI must:

"include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of" aid or assistance under the plan.

2200. *Requirements for State Plans*

A State plan for OAA, AFDC, AB, APTD, or AABD must provide that:

(a) The policies and procedures for taking applications and determining eligibility for assistance or other services will be consistent with program objectives; will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws; and will not result in practices that violate the individual's privacy or personal dignity, or harass him, or violate his constitutional rights.

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2200. *Requirements for State Plans* (continued)

(b) (1) Each person who wishes to do so will be given an opportunity to apply without delay for assistance,

(2) Applicants will be informed about the eligibility requirements and their rights and obligations under the program,

(3) Prompt action will be taken on each application, within reasonable State-established time standards (which, effective July 1, 1968, will not exceed 30 days), and

(4) Assistance will be provided promptly and will continue regularly to all eligible persons until they are found to be ineligible.

(c) Each decision regarding eligibility or ineligibility will be supported by information in the applicant's or recipient's case record.

(d) Eligibility for continuing assistance will be redetermined:

(1) Periodically, within agency-established time standards, no less frequently than every 3 months in AFDC-UP, 6 months in other AFDC cases, and 12 months in the other categories, on eligibility factors subject to change.

(2) Promptly, within agency time standards, not in excess of 30 days after the agency obtains information that indicates that changes in a recipient's circumstances may affect his eligibility or the amount of assistance.

(e) In determining initial and continuing eligibility:

(1) Applicants and recipients will be relied upon as the primary source of information upon which the agency's decision is made about their eligibility.

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2200. *Requirements for State Plans* ((e) continued)

(2) The agency will help applicants and recipients provide needed information, as necessary, or will obtain the information for them if, because of physical, mental, or other difficulties, they themselves are unable to provide it.

(3) Except where a declaration form is used to determine eligibility, each determination will include at least one interview with the applicant or recipient, or if direct contact with him is impractical or would delay case action, with someone acting responsibly for him.

(4) If a declaration form to be filled out by the applicant or recipient, or someone acting for him, is used, simple eligibility requirements will be imposed, with simplified forms relating primarily to eligibility for assistance, and a system will be established to test the validity of case decisions based on the simplified form.

(5) Verification of circumstances pertaining to eligibility will be limited to what is reasonably necessary to ensure the legality of expenditures under the program.

(6) Written notice will be sent to applicants and recipients that assistance has been authorized in a stated amount or that it has been denied or terminated for a specified reason.

(f) The State agency will establish and maintain methods by which it will be kept currently informed about local agencies' adherence to the State plan provisions and to the State agency's procedural requirements for determining eligibility, and it will take corrective action when necessary.

2300. *Criteria for the Administration of the Plans*

(a) The State agency establishes and applies written policies and procedures for taking applications and determining eligibility for assistance or services that are consistent

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2300: *Criteria for the Administration of the Plans*

((a) continued)

with the objectives of the program and respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws and do not result in practices that violate the individual's privacy or personal dignity, or harass him, or violate his constitutional rights. The agency especially guards against violations of legal rights and common decencies in such areas as entering a home by force, or without permission, or under false pretenses; making home visits outside of working hours, and particularly making such visits during sleeping hours; and searching in the home, for example, in rooms, closets, drawers, or papers, to seek clues to possible deception.

The State agency assures itself that supplementary locally developed procedures and practices are consistent with IV-2200 (a).

(b) To assure the right to apply (IV-2200 (b)):

(1) Agency policy differentiates between an "inquiry" and an "application," and defines an "applicant" and an "application"

in accordance with the Federal definitions in IV-2400.

(2) Agency policies and procedures facilitate the right of individuals to apply for assistance and assure that no one is refused the opportunity to apply.

(3) The agency accepts as an application any request for assistance, orally or in writing, made by an individual in his own behalf or by someone authorized to act for him.

(4) Each application is disposed of by a finding of eligibility or ineligibility unless the applicant voluntarily withdraws his application, and disposition is supported by:

(i) Written notification to the applicant that assistance in a stated amount has been authorized; or

2300. *Criteria for the Administration of the Plans*

((b) (4) continued)

(ii) Written notification to the applicant that his application is denied, including the reason for the denial, with a notice of a right to request a fair hearing about the decision; or

(iii) An entry in the case record that a notice has been sent to confirm the

applicant's notification to the agency that he does not desire to pursue his application; or

(iv) An entry in the case record that the application has been disposed of because of death or inability to locate the applicant.

(5) Applicants are informed of the agency's time standard for promptness in acting on applications (effective July 1, 1968, not in excess of 30 days), which is specified in agency policy, and that it covers the time from the date of application to the date the applicants are determined eligible and receive their first assistance check or notice of denial of assistance, and of their right to request a hearing before the State agency if the standard is not met regarding their applications.

(6) Agency policies on standards of promptness for acting on applications are not used as a basis for denying applications; they are exceeded in practice only in unusual situations (e. g., where the agency cannot reach a decision because of failure or delay on the part of the applicant or an examining physician to provide needed information) and in a small percentage of cases; and in such instances, the case record shows that the delay results either from circumstances within the claimant's control, or from some administrative or other emergency that could not reasonably be controlled by the agency.

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2300. *Criteria for the Administration of the Plans*

((b) continued)

(7) The agency assures itself that local agencies establish and maintain methods of controlling the steps in the application process; through reporting and other administrative methods, it identifies problem areas in connection with the taking of and acting on applications and takes corrective action.

(8) The agency makes its rules and policies readily available to applicants, recipients and other interested individuals. This includes a specially developed bulletin or pamphlet explaining the rules regarding eligibility and appeals in simple, understandable terms, publicized and available in quantity.

(9) The agency continues to provide financial assistance in accordance with an authorization of award in a specified amount until:

(i) It makes a finding of ineligibility and sends the recipient a notice of discontinuance, or

(ii) It makes a finding and notice of award for a changed amount of assistance, or

(iii) It makes a finding and sends a notice of a suspension of assistance for a temporary period, because the recip-

ient has received income to meet or for some other reason will not be in need of assistance for a short period.

(c) The agency maintains identifiable records, concerning all applicants and recipients, that

(1) Support decisions on eligibility that are based on facts—statements about eligibility requirements that have been substantiated by observation, from information filed by the applicant in his declaration, or from the agency's

2300. *Criteria for the Administration of the Plans*

((c) (1) continued)

own records or public records, or when necessary, from other sources—that show that all conditions of eligibility are met or that at least one condition of eligibility is not met,

(2) Provide a valid basis for accounting for expenditures of public funds, and

(3) Will assure the availabilty of needed information if the applicant or recipient appeals to the State agency for a fair hearing.

(d) Eligibility is reconsidered and redetermined periodically and whenever the situation requires it. Specifically, the agency:

(1) Identifies the conditions of eligibility subject to change.

(2) Takes appropriate timely action when there is information in advance that changes are likely to occur in an individual's situation which may affect his eligibility or the amount of his assistance.

(3) Acts promptly—within the applicable agency time standards—to determine continuing eligibility, when it learns from the recipient or other source (e. g., another person or agency), that the recipient's situation has so changed that his eligibility or the amount of his assistance may be affected.

(4) Redetermines eligibility regularly, within the applicable agency time standards specified in agency policy, at which time all eligibility factors subject to change are reconsidered.

(5) Gives advance notice of questions it has about an individual's eligibility so that a recipient has an

2300. *Criteria for the Administration of the Plans*

((d) (5) continued)

opportunity to discuss his situation before receiving formal written notice of reduction in payment or termination of assistance.

(e) In the process of determining initial and continuing eligibility:

(1) The agency, in policy and practice, recognizes the rights and responsibilities of applicants and recipients to be responsible participants in their relationship with that agency; it makes clear to them the kinds and sources of factual information that are acceptable as a basis for establishing eligibility; it uses them as the primary source of information about facts concerning their eligibility.

(2) The agency takes no steps in the exploration of eligibility to which the applicant or recipient does not agree; it obtains specific consent for outside contact (whether with social agencies, doctors, hospitals, and similar resources, or with relatives or other individuals); the consent covers the purpose of the contact as well as the individual or agency to be consulted; and where collateral sources are contacted, a clear interpretation is furnished of what information is desired, why it is needed, and how it will be used. If other procedures are followed in an exceptional situation, they are consistent with IV-2200 (a) and IV-2300 (a), and the case record specifies the reasons why they were needed and the specific procedures followed.

(3) If the agency does not use a declaration form, in each determination of eligibility the agency has a personal interview with the applicant or recipient, unless this is impractical or would delay case action. If

difficulties of transportation or other causes preclude a personal interview, contact is made by telephone or correspondence

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2300. *Criteria for the Administration of the Plans*

((e) (3) continued)

or with someone who can act responsibly for him, except that, in initial determinations of eligibility, a personal interview with the applicant is made as soon as possible.

(4) If the agency has to assume responsibility for the entire process of determination of eligibility, or for parts of it, because of the individual's inability to participate in establishing his eligibility, the agency takes measures to help him establish his eligibility for assistance, and it adheres to the same principles as would be followed if he were participating, including making discriminating selection of sources to be contacted.

(5) When available information from the applicant or recipient is inconclusive and does not support a decision of eligibility, the agency explains to the individual what questions remain and how he can resolve or help to resolve them, what actions the

agency can take to resolve them, and the necessity of resolving the questions if eligibility is to be established or continued. If the individual is unwilling to have the agency seek verifying information, the agency, unable to determine that eligibility exists, denies or terminates assistance. In such instances, the individual is notified in writing of the decision, and that he has the right to request a fair hearing on the decision and a right to re-apply at any time.

(6) If a declaration form is used in the determination of eligibility process:

(i) Eligibility conditions for the program, both as to number and content, are simple, easily understood by applicants and recipients, and can be determined objectively.

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2300. *Criteria for the Administration of the Plans*

((e) (6) continued)

(ii) Forms are simple, clear, relate primarily to eligibility for a specific program or programs, and meet Federal standards.

(iii) Agency policies and procedures assure that appropriate staff is available to

assist individuals who are unable to fill out their own forms or who wish assistance.

(iv) The agency's system to test the validity of the determinations based on declaration forms includes methods to test the validity of a continuous random sample of all positive and negative case actions—initial and redeterminations—and the methods, forms and procedures meet Federal standards and appropriately relate to the federally required quality control.

(f) Individuals are informed of the reason(s) for reduction or termination of assistance by a statement of the specific agency policy which serves as the basis for the action. Such notification is given in writing and orally when necessary for clear understanding. There is the same emphasis on helpfulness by agency staff to individuals in connection with the redetermination of eligibility, reduction or termination of assistance as there is in the application process.

(g) The State agency obtains information through statistical and other reports, field visits, and other methods, as to the extent to which local agencies adhere to the State's plan provisions concerned with the Federal requirements, and to the State's policies and procedures for taking applications and making determinations of eligibility; and it takes appropriate action when the Federal requirements and State requirements are not met.

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2200-2999 Application, Determination of Eligibility, and Furnishing Assistance 2/8/68

2400. *Interpretation*

Terms used throughout this chapter are defined as follows:

(a) *Applicant*—a person who has, directly or through someone acting responsibly for him, requested public assistance from the agency administering the program and whose application has not been terminated.

(b) *Application*—an action by which an individual indicates to the agency administering public assistance his desire to receive assistance. The relative with whom a child will live ordinarily makes application for a child for AFDC.

(c) *Inquiry*—a request for information about eligibility requirements for public assistance that is not a request for assistance, though it may be followed by such a request.

Respect for the constitutional and other legal rights and the personal dignity and right to privacy of applicants for and recipients of public assistance requires that the public assistance agency be aware that complex legal issues affecting personal rights may be involved in certain types of practices.

Unnecessary inquiries, both of the recipient and of collateral sources, and embarrassment to the recipient would normally be considered harassment. The simple presence or absence of words of permission or consent to certain procedures does not dis-

pose of questions of law or propriety, as courts have frequently refused to give effect to purported consent where surrounding circumstances indicate that choice was not free. Therefore, the public assistance agency has a responsibility to be alert to avoid violation of either legal rights or common decencies. Agency policies that present obstacles to making application, such as requiring the application to be made in person or at the agency's office, requiring the presentation of proofs of one or more eligibility conditions, or requiring conclusive information

2400. *Interpretation* (continued)

about the eligibility of the applicant as a condition to accepting the application, are inconsistent with the Federal requirement that applications be accepted without delay.

Staff of the agency should make arrangements to meet an individual outside of their working hours only when the agency cannot see the individual during working hours.

In requiring that a State plan provide that redeterminations of eligibility will be made periodically, within maximum specified time periods, it is recognized that the situations of families with children are apt to change more frequently than others.

Reliance on applicants and recipients as the primary source of information (IV-2200 (e) (1)) will enable the agency to determine initial or continuing

eligibility in a large percentage of cases on the basis of information provided by the individual, supplemented, if necessary, by information from public records (i. e., records of a public agency). Such reliance on the individual includes placing responsibility on recipients for notifying the agency, on the basis of instructions understood by them, about changes in their situations that may affect the amount of assistance to which they are entitled or may terminate their eligibility.

Relying on the individual as a primary source of information does not relieve the agency of the responsibility to recognize the differing capacities of applicants and recipients to discharge their responsibilities to the agency. Some can provide or obtain needed information after the agency explains what information is needed; others will need specific directions to sources of information; others may want, or have to rely on, the agency to obtain the information for them.

EXHIBIT M TO APPELLANTS' BRIEF.

H. T. No. 140

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6000. *Fair Hearings*

6100. *Provisions of the Act*

(a) Sections 2 (a) (4), 402 (a) (4), 1002 (a) (4), 1402 (a) (4), and 1602 (a) (4) read as follows: "A State plan . . . must . . .

"provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for . . . [aid or assistance under the plan] is denied or is not acted upon with reasonable promptness."

(b) Sections 6 (a) (5), 406 (b) (2) (E), 1006 (5), 1405 (5), and 1605 (a) (E) authorize Federal financial participation in protective payments "but only with respect to a State whose State plan . . . includes provision for . . .

"opportunity for a fair hearing before the State agency on the determination . . . [of need for protective payment] for any individual with respect to whom it is made."

6200. *Requirements for State Plans*

A State plan for OAA, AFDC, AB, APTD, or AABD must provide that:

(a) The State agency will be responsible for fulfillment of fair hearings provisions, and shall specify the hearing authority.

(b) An opportunity for a fair hearing before the State agency will be granted to any individual requesting a hearing because his claim for as-

sistance is denied, is not acted upon with reasonable promptness, or because he is aggrieved by any other agency action affecting his receipt or termination of assistance, or by agency policy as it affects his situation.

(c) Decisions by the hearing authority, rendered in the name of the State agency, will be binding on the State and local agency. The State agency will establish and maintain a

6200. *Requirements for State Plans* ((c) Continued)

method for informing, at least in summary form, all local agencies of all fair hearing decisions by the hearing authority, and the decisions will be accessible to the claimants, their representatives, and the public (subject to provisions relating to safeguarding public assistance information).

(d) The hearings will be conducted by an impartial official (or officials) of the State agency.

(e) Hearing procedures will be issued and publicized by the State agency for the guidance of all concerned.

(f) Every claimant will be informed in writing at the time of application and at the time of any agency action affecting his claim

(1) of his right to a fair hearing;

(2) of the method by which he may obtain a hearing;

(3) that he may be represented by others including legal counsel; and

(4) of any provision for payment of legal fees by the agency.

(g) The hearing will be conducted at a time, date, and place convenient to the claimant, and adequate preliminary written notice will be given.

(h) When the hearing involves medical issues, a medical assessment other than that of the person or persons involved in making the original decision will be obtained and made a part of the record if the hearing officer or the appellant considers it necessary.

(i) The claimant or his representative will have the opportunity

(1) to examine all documents and records used at the hearing;

(2) at his option, to present his case himself or with the aid of others, including legal counsel;

6200. *Requirements for State Plans* ((i) Continued)

(3) to bring witnesses;

(4) to establish all pertinent facts and circumstances;

(5) to advance any arguments without undue interference; and

(6) to question or refute any testimony or evidence.

(j) Prompt, definitive, and final administrative action will be taken within 60 days from the date of the request for a fair hearing. The claimant will be notified of the decision, in writing, in the name of the State agency and to the extent it is available to him, of his right to judicial review.

(k) When the hearing decision is favorable to the claimant, or when the agency decides in favor of the claimant prior to the hearing, the agency will make the corrected payments retroactively to the date the incorrect action was taken.

(l) The hearing officer's (or panel's) recommendations shall be based exclusively on evidence and other material introduced at the hearing. The verbatim transcript of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the hearing officer's or panel's recommendations, will constitute the exclusive record for decision by the hearing authority and will be available to the claimant at a place accessible to him or his representative at any reasonable time.

6300. *Criteria for the Administration of the Plans*

(a) The State agency establishes policies and procedures that carry out the purpose and provisions of this policy and that assure equity of treatment in relation to the laws and standards pertaining to assistance.

The State agency takes the necessary steps to see that there is uniformity in the application of agency policy in similar situations.

6300. *Criteria for the Administration of the Plans* (Continued)

(b) A request for a hearing is considered as any clear expression (oral or written) by the claimant (or person acting for him, such as his legal representative, relative, or friend) to the effect that he wants an opportunity to present his case to higher authority. The freedom to make such a request is not limited or interfered with in any way, and agency emphasis will be on helping the claimant in submitting and processing his request, and in preparing his case, if needed.

(c) Opportunity for a fair hearing includes:

(1) Consideration of any action, or failure to act with reasonable promptness, on a claim for assistance which includes undue delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and suspension or discontinuance of assistance in whole or in part;

(2) Consideration of the agency's interpretation of the law, and the reasonableness and equitableness of the policies promulgated under the law, if the claimant is aggrieved by their application to his situation;

(3) Consideration of agency decisions regarding:

(i) Eligibility for assistance in both initial and subsequent determinations,

(ii) Amount of assistance or change in payments,

(iii) The manner or form of payments, including restricted or protective payments, even though no Federal financial participation is claimed, and

(iv) Conditions of payments, including work requirements.

(d) Provision is made for reasonable time in which to appeal agency action.

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6300. *Criteria for the Administration of the Plans* (Continued)

(e) Final administrative action is taken within the 60-day limit (IV-6200, item j), except that where the claimant requests a delay in the hearing in order to prepare his case or for other essential reasons, reasonable time is given and such extra time may be added to the 60 days.

(f) The agency does not deny or dismiss a request for a hearing except where it has been withdrawn by the claimant in writing or abandoned.

A request for a hearing is considered abandoned only if neither the claimant nor his representative appears at the time and place agreed upon for the hearing, and if within a reasonable time after the mailing of an inquiry as to whether he wishes any further action on his request for a hearing, no reply is received by either the local or State agency.

(g) The hearing authority may be the highest executive officer of the State agency, a panel of agency officials or a hearing officer appointed for that purpose, but no person who participated in the local decision being appealed will participate in a final administrative decision on such case. The hearing authority is responsible for a final administrative decision in the name of the State agency on all issues that have been the subject of a hearing. The decision of the hearing authority is binding on the State and local agency. The State agency is responsible for seeing that the decision is carried out promptly.

Insofar as may be applicable, a decision in favor of the claimant applies retroactively to the date the incorrect action was taken, and also applies prospectively.

(h) The impartial official (or officials) of the State agency who is responsible for conducting the hearing has not been involved in any way with the action in question.

(i) The issuance of hearing procedures is in the form of rules and regulations, or in some other form in which they will be publicized.

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6300. *Criteria for the Administration of the Plans*
(Continued)

(j) Written notification and, to the extent possible, oral explanation of the right to and procedure for requesting a fair hearing are given at the time of application. Written notice, and oral explanation as necessary, are given at the time of an agency action affecting the claim for assistance, including change in or termination of assistance.

(k) Individuals are informed of their right to be represented at fair hearings by others. At his option, the claimant may be represented by legal counsel or by a relative, friend or other spokesman, or may represent himself.

(l) The convenience of the claimant is considered in setting the date, time, and place for the hearing. Notice is given in writing with adequate preliminary information about the hearing procedure necessary for his preparation for the hearing and effective presentation of his case. He is advised as to the use of witnesses and legal counsel or other representative, as well as any procedure or financial provisions for obtaining legal representation, including availability of fees for legal counsel from the agency.

(m) When an assessment by a medical authority, other than the one involved in the decision un-

der question, is requested by the claimant, it is obtained, at agency expense, from a medical source satisfactory to the claimant. The hearing officer can also consider the physician's report in the record or can request additional evidence. The assessment of such medical authorities will be reported in writing or by personal testimony as an expert witness for the hearing record.

(n) The claimant or his representative has adequate opportunity to examine material that will be introduced as evidence prior to the hearing as well as during the hearing, to give all the evidence on points at issue he believes necessary without undue interference, to ask for substantiation of any statements made by others, and to present evidence in rebuttal.

6300. *Criteria for the Administration of the Plans* (Continued)

(o) Non-record or confidential information which the claimant does not have an opportunity to hear or see is not made a part of the hearing record or used in a decision on the appeal. The hearing officer does not review the case record, or other material prior to the hearing unless such material is made available to the claimant or his representative.

6400. *Interpretation*

(a) *Opportunity for a Fair Hearing*

Fair hearing procedures, including the conduct of the hearing, are designed to assure the right of every claimant to demand and obtain a fair hearing. The claimant's freedom to request a hearing, whenever he believes that proper consideration has not been given to all the circumstances surrounding his claim, is a fundamental right and is not to be limited or interfered with in any way.

Since, under the Federal act and the State plan, every aggrieved claimant is entitled to the opportunity for a hearing, only the claimant may withdraw his request for a hearing and this is to be in the form of a written withdrawal.

Effective complaint and adjustment procedures, whereby corrective action may be easily requested and readily taken without the need for a hearing, are necessary, when indicated. Advance opportunity afforded the recipient to respond to questions which could result in change of grant or termination is a significant part of such procedures. So is written, and whenever practical, oral information of the reasons for change, denial, or termination. This is particularly important where the agency decision is based on judgmental factors or eligibility requirements that entail evaluative decisions on the part of workers, as compared to decisions based on non-debatable facts (such as receipt of OASI, death, etc.). However, the State and local agency adjustment procedures cannot be allowed to interfere with the hearing process.

6400. *Interpretation* ((a) Continued)

The claimant's right to a hearing includes the privilege of presenting his case in any way he desires. Some will wish to tell their story in their own way, some will desire to have a relative or friend present the evidence for them, and still others will want to be represented by legal counsel. In many instances the recipient's position can best be presented by an attorney. In order for the claimant to obtain an attorney, legal fees may need to be provided by the State. Federal financial participation is available in meeting the cost of these fees. States are urged to provide payment for the services of an attorney, or refer recipients to attorneys otherwise available in the community, because of the skill and knowledge of the legal profession in these matters. Furthermore, the claimant may bring any witnesses he desires to help him establish pertinent facts and to explain his circumstances.

The hearing is conducted in an informal rather than formal court-type procedure in order to serve the best interests of the claimant; however, the hearing is to be subject to the requirements of due process.

(b) *Publication of Hearing Procedures*

The publication of hearing procedures in the form of rules and regulations or a clearly stated

pamphlet helps to emphasize the importance of the procedure. This material is useful to applicants and recipients or to others interested in their behalf. It contributes to the fairness of the hearing procedure, and emphasizes that there is "due process" in program administration affecting the right to public assistance.

(c) *Informing the Claimant of His Right to a Hearing*

Written notification of the right to a hearing may be on the application form and other forms routinely used by the agency which go to applicants and recipients, as well as an explanatory pamphlet distributed by the agency. Oral explanations should also be given regarding the policy on hearings at intake and at time of a change in eligibility.

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6400. *Interpretation* ((c) Continued)

The purpose of informing the claimant of his right to a hearing, in writing, and whenever practicable orally, is to assure that the claimant fully understands this right. This right is further assured by the agency explaining the right to a hearing in understandable terms and in being helpful as needed in the preparation for and conduct of the hearing.

(d) *Convenience of the Claimant Considered*

The agency has not discharged its responsibility for a hearing unless it has taken all steps

necessary to enable a claimant who requested a hearing to attend the hearing in person or to be represented by a person of his own choosing. If the hearing is to be held at a considerable distance from the locality of the claimant's residence, it may be necessary to provide for the transportation and other costs of the claimant, his representative, and his witnesses.

Notice to claimant as to the hearing being scheduled in his behalf includes information about the fair hearing as an informal administrative procedure, in which a dissatisfied claimant or his representative may present his grievance with the help of witnesses or legal representation to show why action or inaction in his case should be corrected by the State agency.

(e) *Impartiality of Official Conducting the Hearing*

The person conducting the hearing shall not have been connected in any way with previous actions or decisions on which the appeal is made. For example, a field supervisor who has advised the local agency in the handling of a case would be disqualified from acting as the hearing officer.

(f) *Impartiality of the Hearing Authority*

The hearing authority shall not have been directly connected with the agency action about which the claimant is appealing.

6400. *Interpretation* ((f) Continued)

For example, a State board member who has participated as a county board member or in another capacity in the local action on a case would disqualify himself from rendering a final decision on the particular case. This does not preclude the State director or administrative board from signing the decision in the name of the State agency, even though previously involved in the case.

(g) *Prompt, Definitive, and Final Action*

The hearing authority is responsible for rendering a conclusive decision. When the hearing authority is different from the hearing officer, such authority may adopt the recommendations of the hearing officer, or reject them and reach different conclusions on the basis of the evidence at hand, or refer the matter back to the hearing officer for a continuation of the hearing, because the materials submitted are insufficient to serve as the basis for a decision. The State agency is responsible for assuring that the decision is carried out. Various methods, such as a report by the local unit to the State agency of action taken to carry out the hearing decision or follow-up by the State office staff, may be used. Remanding the case to the local unit for further consideration is not a substitute for "definitive and final administrative action."

The requirement for prompt, definitive, and final administrative action means that all requests for a hearing are to receive immediate attention and will be carried through all the steps necessary to completion. The requirement is not met if the State agency dismisses such requests for any reason other than withdrawal or abandonment of the request by the claimant. The over-all time limit of 60 days between the date of the request for the hearing and the date of the final administrative action, will serve as one of the safeguards of prompt, administrative action. Detailed controls of individual steps in the hearing process, such as: time limits for accepting, forwarding, and acknowledging a request for a hearing, notice to the claimant, and date of the hearing will facilitate proper administration of the hearing process.

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6400. *Interpretation* (Continued)

(h) *Opportunity to Examine the Official Record*

The record of the proceedings at the hearing, which constitutes the official record, is to be made available to the claimant or his representative to examine, if he desires. If any additional material is made a part of the hearing record, this, too, would be made available.

(i) *Judicial Review*

In some States, the right of judicial review may be prescribed by statute specifically au-

thorizing review of the agency decision on the basis of the record of administrative proceedings. In other States, even in the absence of statutory provisions, a claimant may be able to invoke the remedy of judicial review on the showing that the agency action was "unreasonable, arbitrary, or capricious." The content of the notice of decision, as regards judicial review, would depend upon the kind of remedy available in the State.

6500. *Federal Financial Participation*

Federal financial participation is available in:

(a) Payments made to carry out hearing decisions, or to take corrective action prior to the hearing, including corrected payments retroactively to the date the incorrect administrative action was taken.

(b) Payments of assistance continued pending a hearing decision.

(c) Administrative costs necessary for:

(1) Carrying out the hearing procedures;

(2) Providing transportation and other costs for the claimant, his representative and witnesses to and from the place of the hearing;

(3) Fees for legal counsel; and

(4) Other costs, expenditures, and fees reasonably related to the hearing, including expenses involved in obtaining an additional medical assessment.

SUPREME COURT, U. S.

APR 6 1968

JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 949

REUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama, *et al.*,

Appellants,

—v.—

SYLVESTER SMITH, individually and on behalf of her minor children and members of the class,

Appellees.

BRIEF FOR APPELLEES

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IN THE

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OCTOBER TERM, 1967

No. 949

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Appellants,

—v.—

SYLVESTER SMITH, individually and on behalf of her minor children and members of the class,

Appellees.

BRIEF FOR APPELLEES

Opinion Below

The opinion of the Three Judge District Court for the Middle District of Alabama, Northern Division, dated November 1, 1967 is reported at 277 F. Supp. 31 (1967). The opinion and decree of that court are set forth at pages 41-60 of the Record.

Constitutional Provisions, Statutes, and Regulations Involved

This case involves the First, Fifth, and Fourteenth Amendments to the Constitution of the United States, 42 U. S. C. 601 et seq. (A. 7, 8), 49 Code of Alabama, 17

(A. 17), and the Alabama "Substitute Father" Regulations.[1]

The Substitute Father regulation provides:

> V. *Child Ineligible if There is a Father or Mother Substitute*
>
> A. *Father Substitute:* An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.
>
> When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother

[1] The Alabama regulation referred to in Appellants' Brief and in the Alabama Welfare Manual as the "Substitute Father" regulation. The description is incorrect, for the regulation has little to do with parentage. We shall, in order to avoid confusion, use the same descriptive term.

and a man who has not been living in the home or frequenting the home.

> Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home, he is now living at another address, or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; minister; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately (A. 14).

The Appendix to this brief (App. pp. 1a-5a) sets forth a brief analysis of similar statutes and regulations that exist in other States.[2] The Appendix and the Record on Appeal

[2] We believe that many of these regulations are unconstitutional and will be affected by the decision of this Court.

contain examples of Regulations found in 6 other states. Portions of the substitute father regulations of the States of Virginia and Arizona are set forth in the Appendix. The following regulations are set forth in their entirety in the Record: Georgia (Appellees' Exhibit 9, A. 492), Mississippi (Appellees' Exhibit 10, A. 494), Arkansas (Appellees' Exhibit 7, A. 483), and the District of Columbia (Appellees' Exhibit 8, A. 485).

Questions Presented

1. Whether the substitute father regulation violates the Equal Protection Clause of the Fourteenth Amendment and contravenes the purposes and intent of Title 42 of the Social Security Act and Title 49 of the Code of Alabama by denying aid to needy dependent children who are deprived of parental support or care by reason of the death, absence from the home, or incapacity of a parent, for an arbitrary and irrational reason—the alleged sexual behavior of the mother.

2. Whether the regulation in discriminating against Negroes, illegitimates and families of illegitimates violates the Equal Protection Clause of the Fourteenth Amendment.

3. Whether the arbitrary procedures and vague standards contained in the regulation deny due process of law and equal protection of the laws under the Fifth and Fourteenth Amendments.

4. Whether rights guaranteed to Appellees by the Due Process Clause of the Fourteenth Amendment are violated by failing to afford Appellee and the members of her class

an opportunity to be heard in an adversary proceeding before termination of assistance.

5. Whether the regulation, in placing the burden of proof upon the mother to show that the relationship has terminated is constitutionally defective in violating due process and in violating the mother's right against self-incrimination.

6. Whether the regulation in invading the mother's privacy and imposing a burden upon her freedom of association violates constitutional rights guaranteed by the First, Fourth, Fifth and Ninth Amendments to the United States Constitution.

Summary of Argument

1. The substitute father regulation violates the Equal Protection Clause of the Fourteenth Amendment. Aid to Dependent Children financial assistance is a statutory entitlement under both the laws of Alabama and the Federal Social Security Act, and when the child meets the statutory eligibility requirement, he has a right to receive financial assistance. The substitute parent regulation creates precisely the type of classification prohibited by the Equal Protection Clause for it directs that aid be denied to needy dependent children who are deprived of parental support or care by reason of the death, absence from the home, or incapacity of a parent for an arbitrary and irrational reason—the alleged sexual behavior of the mother. *Gulf, Colorado and Santa Fe Railway Co.* v. *Ellis,* 165 U. S. 150, 155, *Morey* v. *Doud,* 354 U. S. 457, 463-64. (See pp. 33-45 of Appellees' Brief and the opinion of the Court below, A. 53-59.)

Appellants knew prior to the time that the substitute father regulation was promulgated in July, 1964, that the regulation would have a discriminatory effect for it would result in the disproportionate denial of aid to Negro children and their mothers. They also knew it would discriminate against illegitimate children and the brothers, sisters and mothers of illegitimate children. These were the regulation's purposes and it has had that effect. (See pp. 22-28 and 33-45 of the Appellees' Brief and footnote 7 of the opinion below (A. 51).)

Needy dependent children who are entitled to aid because they fall within the statutory purpose and scope of 42 USC 601, Code of Alabama, Title 49 Section 17, are excluded solely because of their mother's presumed relationship with a man who is not their father, who need never visit their home, who is not giving them any support and who is not performing any of the duties of a father. This contravenes the purposes and intent of the Social Security Act and the laws of Alabama and the Department of Health, Education and Welfare's refusal to approve the regulation on this and constitutional grounds was correct. (See pp. 28-45 of the Appellees' Brief and the opinion of the court below, A. 47-53.)

Appellants' regulation violates the requirements of the Social Security Act and the United States Constitution in attempting to define as a "parent" (the regulation calls him a substitute parent) one who is under no obligation to (and does not) support the child. Appellant cannot, by an attempted redefinition of the word "parent" make this substantive change in its ADC program. (42 U. S. C. 601, 49 Code of Alabama 17. Ruling of the Secretary of Health, Education and Welfare, January 17, 1961, "The Flemming

Ruling," Appellees' Exhibit 4, A. 278-279; Memorandum Concerning Authority of the Secretary of the Department of Health, Education and Welfare under Title IV to disapprove Michigan House Bill 145 on the Ground of its Limitation of Eligibility, Appellees' Exhibit 6, A. 478; See pp. 33-45 of Appellees' Brief.)

2. The arbitrary procedures and vague standards employed in the interpretation and application of the regulation violate the Fifth and Fourteenth Amendments to the Constitution. There are no definable criteria for the application of the standards set forth in the regulation with one of the results being that decisions are made on the basis of color and status. *Yick Wo* v. *Hopkins,* 198 U. S. 356 (1886). (See pp. 14-16 and 52-55 of Appellees' Brief.)

3. The termination of benefits without an opportunity for a prior fair hearing denied Appellees due process of law. *Slochower* v. *Board of Higher Education,* 350 U. S. 551 (1955); *Willner* v. *Committee on Character and Fitness,* 373 U. S. 96 (1963); *Gonzales* v. *Freeman,* 334 F. 2d 570 (D. C. Cir. 1964); *Dixon* v. *Alabama State Board of Education,* 294 F. 2d 150 (5th Cir. 1961), *cert. den.* 368 U. S. 930 (1961); Reich, *The New Property,* 73 Yale L. J. 733; Bunnis and Fessler, Constitutional Due Process Hearing Requirements in the Administration of Public Assistance, 16 Am. U. L. Rev. 199, 217 (1967). Note, Withdrawal of Public Welfare: The Right to a Prior Hearing, 76 Yale L. J. 1234, 1244. (See pp. 46-52 of Appellees' Brief.)

4. Placing the burden of proof on the mother to show that the relationship has "terminated" after "hearsay" evidence has been received by the caseworker without giving

the mother an opportunity to confront and cross-examine the source of the evidence violates due process. *Speiser* v. *Randall,* 357 U. S. 513 (1958); *Rios* v. *Hackney,* CA 3—1852 N. D. Tex. Dallas Div., Nov. 30, 1967. (See pp. 47-65 of Appellees' Brief.)

5. The requirement that the mother furnish the state with information as to her sexual relations with men (as the price of continuing to receive benefits without any immunity from subsequent criminal prosecution under Alabama's penal laws) violates her privilege against self-incrimination. *Garrity* v. *New Jersey,* 385 U. S. 493 (1967). (See pp. 55-65 of Appellees' Brief.)

6. The question asked of the mother concerning her most intimate relationships (to which she must give answers if she is to receive benefits) violates her right to privacy. The burdens placed upon her by the regulation to limit the range of those she associates with are destructive of her personal relationships and violate her and her children's constitutional rights. *Griswold* v. *Connecticut,* 381 U. S. 479 (1965); *N.A.A.C.P.* v. *Button,* 371 U. S. 451 (1963); *Speiser* v. *Randall,* 357 U. S. 513 (1958); *Loving* v. *Virginia,* 388 U. S. 1 (1967); *Parrish* v. *California,* 66 Cal. 2d 253 (1967). (See pp. 65-80 of Appellees' Brief.)

7. The Alabama administrative remedy is inadequate. Appellees' failure to appeal her caseworker's determination is not grounds for dismissal. *Damico* v. *California,* 389 U. S. 416 (1967); Federal Judicial Review of State Welfare Practices, 67 Col. L. Rev. 84 (1967). (See pp. 75-79 of Appellees' Brief.)

Statement of Facts

Appellees Sylvester Smith, a resident of the County of Dallas in Alabama and mother of plaintiffs, Ida Elizabeth Smith, aged 14; Ernestine Smith, aged 12; Willie Louis Smith, aged 11; and Willie James Smith, aged 9, brought this action in her own behalf, and in behalf of her minor children, and, pursuant to Rule 23 (a) and (b) (2) of the Federal Rules of Civil Procedure, in behalf of all other persons similarly situated.

Appellees sought injunctive relief under 42 U. S. C. 1983 restraining defendant officers of the State of Alabama from the enforcement, operation and execution of the statewide regulation set forth in the Alabama Manual for Administration of Public Assistance, Part I, Chapter II, Section VI, Par. V, commonly referred to as the "substitute father" regulation, on the ground that the regulation was unconstitutional. The Three Judge Court, in a unanimous decision, held the regulation unconstitutional (A. 41-59).

Appellant King, the Commissioner of the Alabama Department of Pensions and Security has the statutory responsibility for the adoption of the regulations designed to effect the policy and for exercising the executive and administrative duties of the Alabama State Department of Pensions and Security. Appellant Wilkinson, Sr., is responsible for enforcing the policies and regulations of the Alabama agency in the County of Dallas, the County wherein Appellees reside. The other Appellants are the chairman, members, and officials of the Alabama agency, responsible for the adoption of policies, rules, and regulations of the Alabama State Department of Pensions and Security.

Appellants, in order to receive federal funds for the Aid of Dependent Children program conducted for the State of Alabama, are required by the provisions of 42 U. S. C. Section 601-609 to formulate a "State Plan" for aid to dependent children consistent with the provisions of the Constitution of the United States and the provisions of 42 U. S. C. Sect. 601 et seq. Under the terms of the Code of Alabama, Title 49, Sect. 17 (7), the defendants are also required to "act as the agent of the federal government . . . in the administration of any federal funds granted to the state to aid in the furtherance of any of the functions of the state department . . . " and otherwise to act as the agents of the federal government in the furtherance of the objectives of the Aid to Dependent Children program. With this arrangement, federal funds are granted under the provisions of 42 U. S. C. Sect. 601 et seq. and these funds constitute the major share (approximately 80%) of Aid to Dependent Children grants in the State of Alabama. Under the term of 42 U. S. C. Sect. 606 (a) a "dependent child" is defined as:

" . . . a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (a) under the age of eighteen or (b) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the secretary) a student regularly attending a school, college or university, its

equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."[3] See also Code of Alabama, Title 49, Sect. 17 (14) (A. 7).

The facts concerning Mrs. Smith's case, the manner in which the regulation is applied and interpreted throughout the State, and the communications between the Department of Health, Education and Welfare and the State of Alabama that lead to the determination by the Federal Government that the regulation was not in conformity with, and contravenes, the Social Security Act were developed at trial. We will set forth these facts in turn.

(a) The Termination of Aid to Appellees

The basic facts are not in dispute. For several years prior to October 1, 1966, Appellee Sylvester Smith and her children had been recipients of financial assistance under the Aid to Dependent Children program of the State of Alabama. Appellant, on October 1, 1966, advised Mrs. Smith that an undisclosed third party had told the Welfare Department that Mrs. Smith was "going with" Mr. Williams and unless Mrs. Smith could prove otherwise Mr. Williams was to be considered a "substitute father" within the meaning of the regulation (Appellees' Exhibit 40, A. 275). Appellant did not ask whether Mr. Williams gave any support or care for the maintenance of the children, for Appellants then claimed (and rightly so) that under the regulation those facts are not relevant (A. 250). Appellants claimed Mrs. Smith did not sustain her burden of proving that the

[3] States also have the option (Alabama has not exercised it) to include children "deprived of parental support or care by reason of the unemployment . . . of a parent." 42 U. S. C. 607.

relationship had terminated (A. 47) and by notice dated October 11, 1966, Mrs. Smith and her children were removed, retroactively to September 30, 1966, from the list of eligible to receive such aid because her children allegedly had a "substitute father" (A. 16). The termination notice did not advise Mrs. Smith of her right to appeal the determination. It stated only that Mrs. Smith had a right to "talk with" Appellants if she "wants other information" (A. 16). Appellants dispute Mrs. Smith's claim that she was never orally advised of her right to appeal (A. 256).

Three of Mrs. Smith's children have not received parental support or care from their father since 1955, the year of their father's death (A. 243). The fourth child's father left home in 1963 and the child has not received his father's support or care since then (A. 243). All the children are living in the home of their mother. The children are under the age of 18, are not receiving any other type of public assistance, and all, except for the substitute father regulation are eligible for aid. The sole income of Mrs. Smith and her children, at the time of the termination of aid, was $20 per week (she worked as a waitress), and this is below the financial standards promulgated by Appellants as necessary for subsistence (A. 244).

Mr. Williams has nine children of his own and he lives with his wife and family, all of whom are dependent upon him for support (A. 46). Mr. Williams, Mrs. Williams and Mrs. Smith (and their children) are all good friends. They visit each other's homes with their children (A. 251, 252, 254). Mr. Williams' parents and Mrs. Smith's parents were friends, and they have known each other "all their days" (A. 246). Mr. Williams is not the father of any of Mrs. Smith's children and is not willing or able to support her

children (A. 247). Mrs. Williams is required to work to help support the Williams household.

(b) The Regulation on Its Face

The regulation directs that aid not be given to certain needy children who are deprived of their father's support or care by reason of his death, incapacity or absence from the home. The aid cannot be given because of the "substitute father" even though the man is not the children's father, is not living in the home, is not giving them any support and is not performing any of the duties of a father. He may be, as is Mr. Williams, living with and supporting his own family.

It directs the agency to terminate aid whenever there "appears" to be such a relationship. It does not state the criteria to be used by the caseworker in determining when such a relationship does "appear".

The regulation presumes that a man who has a sexual relationship with a woman is supporting all of her children. The regulation speaks of a "continuing" relationship and of "frequent" visits. However, a child's birth (a single act) is prima facie evidence of a continuing sexual relationship even though the sexual act took place nine months before birth or fifteen months before a decision to terminate aid. During the course of the initial interview the caseworker can ask (and expects to receive answers) to intimate questions about the mother's private relationships. Undisclosed informants' statements (as in Mrs. Smith's case) are of sufficient weight to require a closure. Facts concerning the support of any of the children are not relevant.

Once the state has decided that a relationship exists the mother bears the burden of proving it has terminated. The regulation does not set down standards defining the mother's burden, only that she, in order to support her burden of proof, must go out into the community and get her neighbors, law enforcement officials and merchants and people who "are in a position to know" the nature and the status of the relationship to corroborate her version of the facts.

There is not any impartial hearing prior to the termination of aid. The termination notice does not advise the recipient of the facts that led to the termination. It states only that her aid has been terminated because of the regulation. The notice does not advise her of her right to appeal. It provides that if the recipient "wants other information from the County Department, we [the Agency] shall be glad to talk with you" (A. 16). The opportunity for an administrative hearing comes months after the aid has stopped.

(c) Appellant's Interpretation and Application of the Regulation

Appellants do not claim that the regulation has any definite standards. Their Brief states the testimony indicated that the facts of each case have to be considered in determining "how the policy reasonably applies . . . the application of the policy would depend on the facts in each situation . . . these terms (of the regulation) must be applied in accordance with the facts of each situation" (p. 9 of Appellants' Brief) ". . . each case would have to be resolved on its own unique factual situation" (p. 6 of Appellants' Brief). The testimony of seven County Directors, Welfare Department officials and Mrs. Smith's

caseworker demonstrated that each interpreted the regulation in a substantially different way and that some of Appellants' employees, in frustration, developed additional criteria of their own which are not found in the regulation (A. 60, 270).

One school of thought was that the regulation authorized the recipient to determine whether or not the relationship with the man was "continuous" (A. 152, 172). This standard is, of course, not in the regulation. If the recipient were wrong (the man saw her once and did not intend to see her again) she and her children would lose aid. The proponents of this interpretation did not inquire as to the length or frequency of the relationship and did not advise their clients of the kind of relationship prohibited by the regulation. They were perfectly willing to allow the client to decide if the facts of her case required a termination of aid (A. 201, 220, 228).

The second school of thought saw the regulations creating definite standards. Appellant King felt that the regulation should be applied only if the parties had weekly sex (A. 84) and that if any cases were closed where the relationship was less frequent, it would be improper (A. 89). One County Director testified that if the parties had sex once every three months the regulation could and should be applied (A. 181), and another County Director testified that once every *six* months would be enough (A. 172).

Appellants' witnesses all agreed that if a mother had a five month old child, and said she had not had a sexual relationship since the date of conception (14 months before) and had not seen the father since, she was not, based on her uncontradicted statements, entitled to aid even

though there was no evidence to the contrary. She must first prove that the "relationship" had terminated by getting corroborating evidence.

The third school of thought was that there was not and could not be any standard application of the regulation. As Appellant King stated, each case must be judged on its own for no one has defined the words in the regulation to indicate when the regulation should be applied and when it should not (A. 84, 86, Appellants' Brief pp. 6, 9).

The fourth school of thought had adopted other yardsticks (not found in the regulation) to aid them in determining when to apply the regulation. Some of the criteria are whether the caseworker feels the parties are serious about each other (A. 152), whether they will eventually marry (is the man available for marriage), what do the parties' parents and their children think of the relationship, etc. (A. 152).

The kinds of questions to be put to the members of the Appellee's class by the caseworkers varied depending on the varied understanding of the regulation. Some asked about the frequency of sexual relationships, while others felt such questions degrading (A. 138). Every aspect of the recipient's life, according to some of Appellants' employees is open to scrutiny (A. 174).

The evaluation of the "evidence" concerning the alleged relationship is left to the caseworker and Appellants' employees developed different criteria. Each caseworker must determine whether the person supplying the information is motivated by a desire to harm the client, and whether the informant has any facts to support the allegation of impropriety. The regulation offers no guide to help the caseworker in answering these questions.

1. *Alabama's Attempts Prior to the Adoption of the Substitute Father Regulation to Enact a Suitable Home Policy—The Flemming Ruling*

Appellant King testified that the "present substitute parent policy includes what had been "the previous suitable Home Policy" as well as several new provisions (A. 78). Alabama had a suitable home requirement for many years prior to July, 1964, the date of the enactment of the substitute father policy. The suitable home policy sought to deny aid on the grounds that the moral atmosphere in the home was detrimental to the child's upbringing (Appellees' Exhibit 3, A. 321, 332). The stated purpose of the policy was to (a) reduce aid to Negroes on welfare rolls by terminating cases, (b) penalize Negro children of allegedly promiscuous mothers, whether these children were legitimate or illegitimate, (c) penalize illegitimate children, (d) penalize brothers and sisters of illegitimate children, (e) discourage mothers from acting in an immoral manner and having illegitimate children, and[4] (f) reduce welfare costs.[5] However, the federal Government's opposition to plans or policies (a) denying aid to families with dependent children because of the moral behavior of a parent and (b) imposing penalties on families with illegitimate children, had been well known and Alabama was advised that such policies would not be allowed since they were out of conformity with the Social Security Act and might result in the termination of federal funds for the state's plan (Appellees'

[4] Alabama now claims that one of the purposes of the regulation was to increase the amount of the grant to those then receiving aid. This was not the reason then, and even if it was, it does not justify the regulation. (See pp. 38 and 39 of Appellees' Brief.)

[5] This was a minor reason, since only a small fraction of the welfare budget was involved (Appellees' Exhibits 21A, 21B, 21C, and 21D).

Exhibit 3, A. 321; 362). See also Bell, *Aid to Dependent Children,* Columbia University Press (1965), pp. 93-117.

The reasons for the suitable home policy were the same as the reasons for the substitute father regulation. A brief discussion of federal-state welfare relationships (and the sanctions available to the Department of Health, Education and Welfare when a state welfare plan is unconstitutional or out of conformity with the Social Security Act) and negotiations concerning the Alabama suitable home policy provides a background for our consideration of the history of the Alabama substitute father regulation.

The sanction available to the Department of Health, Education and Welfare (hereinafter called HEW), in order to exact state compliance with the policy and specific requirements of the Social Security Act, is to withhold federal funds from the state program. The only option is to withhold the entire federal grant under a particular title for non-compliance of any portion of a state plan.[6] This is rarely done. There have been only fifteen so-called "conformity hearings" in which the requirements of a state plan have been questioned since the enactment of the Social Security Act.

The last conformity hearing was the first hearing involving a state ADC program and goes to the question of

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[6] In *Gardner* v. *Alabama,* 385 F. 2d 804 (5th Cir. 1967) cert. denied, 36 USLW 3287 (Jan. 16, 1968) the Court upheld HEW's right to require assurances, upon a threat of termination of federal funds, that Alabama's federally funded State program (including the ADC program) be administered without racial discrimination and assurances that the state is attempting to remove present discrimination. The State of Alabama had refused to give those assurances and their claim at p. 36 of their brief that the program is being fairly administered must be treated with some degree of scepticism.

the extent to which a state could validly limit its grants to dependent children. The Louisiana legislature passed an act requiring, as a condition precedent for eligibility for assistance, that the home of a dependent child be determined to be "suitable". The legislation dealt not only with the physical conditions of the home but also with the moral conduct of the child's parents. It provided that any home in which an illegitimate child had been born subsequent to the receipt of public assistance would be considered "unsuitable" and, hence, the family would no longer be eligible for an ADC grant unless proof were submitted that such conditions had been remedied. The act was interpreted by the Attorney General of Louisiana as being retroactive in effect. As a result of this legislation, in August, 1960, over 23,000 children were dropped from ADC rolls in Louisiana.[7]

On January 17, 1961, Secretary Flemming, then Secretary of HEW, in response to the Louisiana legislation, stated in what is known as the Flemming Ruling, that all future state plans with similar provisions would be contrary to the purposes and interest of the Social Security Act:

> "I have concluded that when a needy child who otherwise fits within the Aid to Dependent Children program of the State is denied the funds that are admittedly needed to provide the basic essentials of life itself, because of the behavior of his parent or other relative, the State plan imposes a condition of eligibility that bears no just relationship to the Aid to Dependent Children program. I therefore believe that

[7] (Address of Mr. Justice Fortas, James Madison Lecture, N. Y. U., 1967, p. 17, citing Bell, Aid to Dependent Children, Columbia University Press (1965), 137-151).

this Department should inform the State agencies administering Aid to Dependent Children plans that eligibility conditions with the effect described above are not compatible with entitlement for continued Federal grants" (A. 279).

The Commissioner of Social Security, following the Flemming Ruling, stated that effective July 1, 1961:

"A State plan for aid to dependent children may not impose an eligibility condition with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable while the child continues to reside in the home. Assistance will therefore be continued during the time efforts are being made either to improve the home conditions or to make arrangements for the child elsewhere" (A. 279).

The Federal Government, prior to the 1961 Flemming Ruling, although it had not clearly articulated its position respecting many of the problems posed by the suitable home policy had been refusing to approve policies similar to Louisiana's.[8] The policies in force in Alabama from 1959 to 1963 were not approved for this reason.

For example the State of Alabama, by letter dated April 8, 1956, submitted a suitable home policy to HEW, which provided:

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[8] The Department of Health, Education and Welfare's reason for rejecting such policies were that:

"It is of great importance that State agencies should be concerned about the effects on children of the environment in which they are living and that services be provided which will be directed toward affording the children maximum protection and strengthening their family life. Whenever there is a question of the suitability of the home for the child's upbringing steps should be taken to correct the situation, or, in the alter-

Section 2. As used in this Act, the terms "suitable family home" means a family home which in accordance with the rules and regulations of the State Department of Pensions and Security, provides a stable environment for the child or children residing therein. A determination of a suitable home shall include the pattern of living of the parent or other relatives with whom the child resides, whether the parent or relative is promiscuous, has casual relationships either in or

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native, to arrange for other appropriate care of the child. It is completely inconsistent, however, to declare a home unsuitable for a child to receive assistance and at the same time permit him to remain in the same environment" (A. 279).

The major significance of the Flemming Ruling does not lie in the narrow issue of parental moral behavior as an impermissible eligibility condition. Rather, it lies in the mode of analysis it utilized for evaluating permissible as against impermissible conditions. The Flemming Ruling prohibits consideration of the behavior of the parent as an eligibility condition because *"that bears no just relationship to the Aid to Dependent Children Program."* The morality of a parent, like the legitimacy or illegitimacy of the birth status of the child, is not a "reasonable classification" in light of the purpose of Title IV: aiding needy children deprived of a parent's support. As stressed by HEW:

> "... it should be remembered that throughout the history of the Social Security Act, the position of the administering Federal Agencies ... has been that, if a state chooses to utilize criteria of eligibility, narrower than those permitted by the Federal statute, the State plan is approvable only if the classification effecting such limitation is a rational one in the light of the purposes of public assistance programs" (Appellees' Exhibit 6, A. 478).

See Bell, *Aid to Dependent Children* (1965), pp. 142-151; Steiner, *Social Insecurity, The Politics of Welfare,* Rand McNally (1966); Appellees' Exhibit 4 (A. 463). Despite the Flemming Ruling, the Department of Health, Education and Welfare has failed to disapprove other "substitute parent" regulations violative of the Ruling. It is difficult for the Department to reject parts of plans because it may endanger the rest of the program. It is also difficult for HEW to disapprove of eligibility requirements that save the State and Federal Government monies.

outside the home, has continued to have illegitimate children and has otherwise failed to demonstrate an intent to establish a stable home.

Section 3. No person who is living with his or her mother and whose mother has had an illegitimate child after receiving a check from any County Department of Pensions and Security, shall receive any assistance under the program for aid to dependent children unless and until proof satisfactory to the County Board of Pensions and Security has been presented showing that the mother has ceased illicit relationships and is maintaining a suitable family home for the children (Appellees' Exhibit 4, A. 463).

After additional correspondence, HEW by letter dated April 23, 1958, indicated the constitutional defects in the proposed legislation.

The State of Alabama replied by submitting numerous other suitable home policy and in each instance HEW replied that the policy was still constitutionally defective. Thereafter, Alabama gave up its attempts to pass a suitable home policy and began to formulate the substitute father regulation (Appellees' Exhibit 3, A. 321-362).

2. *The History of Alabama's Substitute Father Regulation, Its Purpose, the Reason for Its Enactment, the Manner in Which It Was Promulgated and Some of the Statistics Indicating Its Success in Achieving the End Sought by Appellants*

Mr. King, immediately after coming into office, authorized a study whose purpose was to (a) examine the Welfare system to find those areas in which Alabama could limit the

amount of monies it was spending, (b) help formulate a regulation that would terminate assistance in programs that were primarily composed of Negroes and not affect the white recipients, (c) discourage illegitimacy by penalizing Negro illegitimate children and their families by depriving them of aid, and (d) impose regulations that would penalize welfare families where the behavior of one of the parents did not conform to certain moral standards.[9]

The State, in order to accomplish these purposes, was faced with the burden of developing a regulation that appeared not to be discriminatory but did reduce aid disproportionately. The State succeeded, for the regulation, though it makes no racial distinction, has resulted in the denial of aid to a disproportionately higher number of Negro families than white. See *Griffin* v. *County School Board*, 377 U. S. 218 (1967).[10]

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[9] This purpose is, of course, relevant in seeking to determine the propriety of state action. *Lane* v. *Wilson*, 307 U. S. 268. See also Mr. Justice Douglas' concurring opinion in *N. A. A. C. P.* v. *Button*, 371 U. S. 415, 445-446 (1963). The history of the interpretation and application of "substitute father" regulations and suitable home policies throughout the country showed that it resulted in a disproportionate exclusion of Negroes and other non-white children. Myrdal, *An American Dilemma* (Harper & Row, 1944), p. 359. Bell, *Aid to Dependent Children*, Columbia University Press, 1965. May, *The Wasted Americans*, Signet (1963) chapter 6. See Moynihan, The Crisis in Welfare, Governor Rockefeller's Conference on Welfare, 1968, p. 66, implying that restrictions on ADC programs (they are becoming Negro programs) are racially motivated. See also the amicus brief submitted by the NAACP Legal Defense Fund in *Levy* v. *Louisiana*, Oct. Term 1967, No. 508.

[10] The same reasoning lies behind the promulgation of similar substitute parent regulations in Arkansas, Georgia, New Jersey, Oregon and other states (cf. Appellants' Brief, p. 39). The Arkansas Gazette in September, 1959 reported that:

"... in addressing a convention at Hot Springs, Governor Faubus mounted the well-worn hobby horse of criticizing welfare payments to mothers of illegitimate children: 'By taxing

The Alabama Aid to Dependent Children program, the program affected by the "regulation", is the only one of Alabama's major public assistance programs that has more Negroes than whites receiving benefits, and it was in this program (the least expensive of the four major programs) that the state decided to start restricting aid.[11]

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the good people to pay for these programs, we are putting a premium on illegitimacy never before known in the world.' To anyone who has ever heard this line before, which includes all of us in Arkansas, there was little doubt that Mr. Faubus was referring primarily to Negro unwed mothers and not to any 'good, honest, hard-working' white folks who have been remiss in getting down to the licensing bureau . . . It is a fairly safe theme. Nobody, of course, wants to be put in the light of defending both bastardy and Negroes in the same breath, and the few who might point to lack of educational opportunity and generally depressed economic and social conditions as a factor in illegitimacy are soon shushed into silence." Bell, p. 68.

In January, 1951, in Georgia, Governor Herman Talmadge was quoted as being "willing to tolerate an unwed mother who makes one 'mistake' but not when the 'mistake' is repeated two, three, four or five times." He proposed restrictive policies which the state welfare director claimed would "save the state $440,000 a year, mainly by limiting aid to children of unwed Negro mothers." The director further noted that "70 percent of all mothers of more than one illegitimate child are Negroes . . . Some of them finding themselves tied down with one child are not adverse to adding others as a business proposition." Bell, pp. 67, 81-84. See Moynihan, The Crisis in Welfare, Governor Rockefeller's Conference on Welfare, 1968, p. 65. See fn. 47 of this brief at pp. 61-63.

[11] The Alabama Social Welfare Annual Report for the Fiscal Year 1963-4 (Appellees' Exhibit 21A) indicates that the Aid to Dependent Children program constitutes 10.4% of the total agency expenditures. The various programs are set forth in Appellees' Exhibits 21A, 21B, 21C, 21D, 21E. Each of these programs (except for the Aid to Dependent Children program) when examined in the light of the economic statistics of Alabama, has a disproportionately large number of white families compared to Negro families. The ADC program in Alabama (and throughout the country) because it is the "Negro program" pays, in all of the categorical assistance programs, the lowest percentage of need. May, *The Wasted Americans*, Signet (1963), p. 24.

The study authorized by Appellant King dated July 12, 1963, entitled "Characteristics of Families and Children Receiving Aid to Dependent Children" indicated, among other things, that of the 22,574 families on ADC, 8,172 were white and 14,345 Negro (Appellees' Exhibit 22, A. 569). Table 2 of the Study, "Status of Father with Respect to Eligibility of Children for ADC" indicates that the Negro-White ratio with respect to each category concerned (the dead, incapacitated or absent father), is racially proportionate in all but one class, that category concerned with those cases where the absent father is never married to the mother (A. 571). In those families where the absent father's was "divorced or separated" there were twice as many white families as Negro families. However, in that category where the absent father never married the mother, there were nine times as many Negro families receiving aid as there were white families (A. 571).

Table 6, "The Legitimacy Status of Children Receiving Aid to Dependent Children" indicate there were 31,057 legitimate Negro children receiving aid and 21,623 white children. However, there were 16 times as many Negro illegitimate children receiving aid as white children. Hence, a policy aimed at cutting off aid to families where there were illegitimate children would strike primarily at Negro families.[12] The regulation is written so that one illegitimate child in a household of ten could result in the entire family being cut off (Appellees' Exhibit 22, A. 575).

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[12] There are 45 times as many Negro illegitimates in Alabama as white illegitimates (Appellees' Exhibit 34, A. 472). See also pp. 18-22 of the amicus brief submitted by the NAACP Legal Defense Fund in *Levy v. Louisiana*, October Term 1967, No. 508 and N. Y. Times, "It's Tough to Be Illegitimate," March 31, 1968, p. 10E.

Table 7, "The Status of the Child's Natural Step or Adoptive Father" (Appellees' Exhibit 22, A. 569) indicates the normal racial ratio in all but one category: there were 17 times as many Negro fathers who were not married to the mothers as whites.

Appellees, in order to develop facts to prove the racially discriminatory nature of the regulation, selected seven counties representative of the State of Alabama and asked for the number of terminations due to the regulation for a specified month, the month of July, 1966 (Appellees' Exhibit 25, R. 706). *100% of the cut-offs were Negro.* Appellees, anticipating the argument that July, 1966 was not representative, had the Alabama Bureau prepare statistics for a 30 month span in those seven counties.[13] In this study, involving 498 cases, the cut-off rate "dropped" to 97% Negro and 3% white (Appellees' Exhibit 31, A. 736).[14]

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[13] The ADC rolls in Alabama are approximately two-thirds Negro and one-third white, so one would expect the closure rate on the basis of a nondiscriminatory regulation to approximate that figure.

[14] The seven counties selected by a sociologist in the employ of Appellee as representative of the state on the basis of 1960 census figures furnished to Appellee by Appellant were as follows: Baldwin, Chambers, Clarke, Dallas, Greene, Montgomery and Russell Counties. The characteristics of these counties are set forth in Appellees' Exhibit 26. Appellant argued below that these counties were not representative (they did indicate why they were not representative) and Appellee agreed to let Appellant submit figures for *any* county over *any* period of time. Appellees' Exhibit 41 (A. 777) submitted by Appellant indicates that in the four counties selected by Appellant, 88% of the cut-offs involved Negro families. We believe we can assume these four counties (out of a total of 61) have the lowest percentage of Negro cut-offs and that statewide figures are well above 95%.

A close analysis of Appellant's four counties prove the discriminatory nature of the policy. In Barbour County where there are 10 times as many Negroes receiving aid as whites, the cut-off ratio is 40 to 1. In Jefferson County where there are 14 times as many Negroes receiving aid as whites, the cut-off rate because of the regulation was 12 to 1 (Appellees' Exhibit 41, A. 777). See *Whitus*

The statistics leave no room for dispute over whether the regulation affects primarily Negro families.[15]

One of the purposes of the regulation was to cut down the welfare rolls and it has, of course, succeeded. Appellant King testified that since June 1964, when the "substitute father regulation was promulgated, the Alabama ADC rolls have been reduced from 72,764 children to 56,822 children (fn. 7 of the Court's opinion, A. 51).

Another purpose of the regulation was to deny aid where there are illegitimate children. This may have been the primary reason for its enactment (A. 75). The Alabama Bureau of Research and Statistics by document dated March 22, 1967 (Appellees' Exhibit 25, A. 706) indicated that 11 of the 16 cases involving the denial of an application or the closure of cases during July, 1966, in selected counties were terminated (or the application rejected) because of the mother's pregnancy or because of the presence of an illegitimate child.[16]

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v. *Georgia*, 385 U. S. 545 (1967); *U. S.* v. *Jefferson County Board of Education*, 372 F. 2d 836, 887 (5th Cir. 1966), aff'd on reh. 380 F. 2d 383 (1967); *U. S.* v. *Ward*, 349 F. 2d 795.

[15] During the period July, 1964 to January, 1967, 305 cases were closed in Dallas County because of reasons *other* than the substitute parent rule. Of these, 282 of the families were Negro, 23 of the families were white (A. 583). One would expect the same Negro-white closure rate if the regulation were not discriminatory. Mrs. Jacqueline Stancil, caseworker, testified that during the period of her employment with the State of Alabama in Dallas County, she had closed 19 cases because of the substitute parent regulation and *all* of them involved Negro families. Appellees' Exhibit 23b (R. 586) indicates 184 cases were closed in Dallas County between July, 1964 and January 31, 1967 and 182 of the cases involved Negroes.

[16] This is a common effect of substitute father and suitable home policies. Bell, *Aid to Dependent Children*, Columbia University Press (1966), p. 101.

Mrs. Stancil, one of Appellant's employees, stated that 14 of the 19 cases closed by her during the course of a two and a half year period in Dallas County because of the regulation were on the grounds of the birth (or oncoming birth) of an illegitimate child.[17]

3. *Communications Between the State of Alabama and HEW Concerning the Substitute Father Regulation and HEW's Refusal to Approve the Regulation Because It Did Not Conform to and Contravened the Purpose of the Social Security Act*

The substitute father regulation presently in effect in Alabama is substantially the same as the regulation first submitted to HEW in September, 1964 and the defects in the first plan exist in the present policy (A. 78).

Mr. Wave Perry, Atlanta Regional Director of HEW by letter dated August 31, 1964 acknowledged receipt of the Alabama Substitute Parent Plan dated July, 1964 (Appellees' Exhibit 1, A. 293), stating:

> This policy raises a serious question with Section 404 (b) of the Social Security Act and State Letter No. 452 by denying aid "without respect to a child because of the conditions in the home in which the child resides." Under the identified Federal law and policy a State may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis of behavior of the mother or other unsuitable conditions in the home so long as the child continues to re-

[17] Appellee could not determine whether different kinds of information were used in applying the rule against Negro and white cases because every case summary in the test month was that of a Negro family (Appellees' Exhibits 30-37, A. 782-785).

side in the home. *The provisions of Administrative Letter No. 1919 seems clearly to be put out of conformity with such laws and policy.*

Other provisions of the policy imposing the burden on the matter with respect to proof of identity of the father or his whereabouts appear *to be so unreasonable as to bring into question their acceptability under Federal policy.* Eligibility may not be conditioned upon requirements which go beyond the parent's ability to meet.

The Regional office is unable to accept Administrative Letter No. 1919 for incorporation into your approved AFDC plan. We would suggest, therefore, that you rescind this letter and reinstate the cases that have been closed under this policy.[18]

Appellant King, replied and argued the regulation did conform to the intent of the Social Security Act (A. 294). Mr. Perry by reply letter indicated the plan was a suitable home plan and did not conform.[19]

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[18] The procedure for the submission of a state plan to HEW was testified to by Fred Steininger, the Director of the Family Services Program. See also Note, Welfare's Condition X, 76 Yale L. J. 1222, 1967.

[19] Mr. Perry's letter states, in part:

"While the provisions in the administrative letter purport to restrict further your policies governing deprivation of parental support or care in relation in absence and are in the section of your AFDC plan pertaining to these policies, *we still view them as in fact introducing consideration of the behavior of the parent in the home and this in actuality as imposing a suitable home requirement.* The total effect of these provisions appears to result in denial of aid 'with respect to a child because of the conditions in the home in which the child resides.' *As stated in our letter of August 31, the provisions of Admin-*

The Regional Office of HEW, having failed to persuade Alabama to change its plan, asked the Washington, D. C. office to intervene. Thereafter, Mr. Steininger became involved in the discussion, and after a conference in Washington and further correspondence between the parties, Mr. Steininger on December 11, 1964 replied to Alabama's proposed plan and advised them that it was not in conformity.[20]

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istrative Letter No. 1919 seem clearly to be out of conformity with Section 404(b) of the Social Security Act and State Letter No. 452" (A. 296).

[20] Mr. Steininger's letter states in part:

"As was made known to you in the letters from Mr. Perry and during our meeting,—we view these provisions as establishing a 'suitable home' requirement because their effect in the main is to base eligibility of a child for AFDC on the behavior of his mother rather than on the presence in the home of a man whose relationship to the family is like that of a husband and father.

"Condition (2) covers the case where the man is merely a frequent visitor in the home 'for the purpose of cohabiting' with the mother. On its face, it *requires a finding that the man is a 'substitute father' of the mother's children entirely on the basis of a pattern of moral behavior, namely, the frequency of a relationship that is solely meretricious in nature.* It is questionable whether, in such a factual situation, a parental relationship can be even presumed—much less established—that would justify exclusion of the children from the program.

"We believe that condition (3), which relates to the case where a man does not live in the home or visit the home and where his relationship with the mother is carried on entirely outside of the home, provides no basis for a finding that the children in the home in fact have a 'substitute father'. As this condition is related solely to the behavior of the mother and is without regard to any relationship of the man to the children in the home, it is beyond question a suitable home provision and *is thus not in conformity with section 404(b) of the Social Security Act and State Letter No. 452.*

"A problem is also presented by the provisions with respect to the burden imposed on the mother to controvert the finding, required by the proposed conditions, that there is a 'substitute

This is the last letter sent by HEW to Alabama concerning the substitute father regulation.

Appellant King testified he had submitted the substitute father policy to HEW, did not know the status of the policy, and did not know whether it had been accepted or rejected, did not know why it had been rejected (if it had) and that he was waiting to hear from HEW (A. 93-94). This was flatly contradicted by Mr. Steininger (Steininger Tr. 72). He testified that the statute governing the submission of plans requires him to note the Department objections and then ask the state to resubmit and to attempt to negotiate the plan further. He testified that a determination that the regulation is not in conformity is tantamount to disapproval and that this is what was done (Steininger Tr. 84-85).

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parent' of her children. The problem relates to all three conditions, but is particularly acute with respect to condition (3). Despite the clearest evidence that the 'substitute father' is a complete stranger to the children and the home in which they live, the mother can disprove that he is their 'father' only by discontinuing her 'cohabitation' (i.e., we understand sexual encounters) with him and corroborating this by 'acceptable references in a position to know'. This accentuates the irrelevance and unacceptability of the proposed basis for excluding cases from assistance. *Moreover, we believe that a requirement that a person seeking benefits must prove a negative is not a reasonable one where it imposes a condition that goes beyond the individual's ability to meet.* Similarly, a requirement that third persons furnish evidence or take other action may be unfair because an individual cannot force others to act.

"We request that you revise the Alabama materials to conform to the provisions of the Federal law and current policy" (A. 303).

The communication between Alabama and HEW are illustrative of correspondence between the various Bureaus of Public Assistance and HEW and other states. See Bureau of Public Assistance, Illegitimacy and its Impact on the ADC program (Washington, D. C., G. P. O. 1960), pp. 47-49; Bell, pp. 71-73.

Mr. Steininger testified that he was waiting to hear from Alabama[21] that except for the Alabama plan, he had never "disapproved" any other "man-in-the-house policy" (Steininger Tr. 85-86).

The State of Alabama attempted to evade the significance of the refusal by HEW to approve the regulation rejected in Mr. Steininger's Dec. 11, 1964 letter by arguing that the present policy is different from the one disapproved, does not suffer the defects of its predecessor and hence, the previous determination by HEW is not applicable to the present policy. The Court below found that the regulation submitted in 1964, nearly identical to the one presently in existence, and HEW's determination that the previous plan is "out of conformity" and is applicable to the present

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[21] Mr. Steininger testified as follows:

Q. That is what was done in this case, rather than to formally disapprove, you asked Alabama to submit another plan to you that you felt was in conformity with the Social Security law. Is that correct? A. Yes, sir.

Q. And one of the reasons that there has been this delay in your negotiations with Alabama, has been the presence of this Title VI hearing. Isn't that right? A. This has interfered with our further negotiations with the state.

Q. The formal practice would be that you would have a resolution much more quickly after our disapproving letter? A. Yes.

Q. Than a two year lag that we have seen here? A. Yes.

Mr. Garbus (Attorney for Appellee): You then sent it back to the State of Alabama to see if they would acknowledge, resubmit, and mitigate some of the questions that were raised?

Mr. Steininger: Yes.

Mr. Garbus: It is my understanding of your testimony that up to this point, the State of Alabama has not mitigated the objection to your letter of December 11, 1964, with respect to any submission since that date, is that right?

Mr. Steininger: That is right (Steininger, Tr. 72).

plan. (See the Opinion of the Court below, A. 53, Steininger Tr. 42-43, 45.)[22]

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[22] Mr. Steininger testified as follows:

"Q. Mr. Steininger, have you had an opportunity today to read administrative letter No. 2133 [the most recent submittal] of the State of Alabama, dated February 18, 1966? A. Yes.

Q. I ask you whether that particular document submitted by the State of Alabama, would in your opinion, be sufficient to meet the objection set forth in your letter of December 11, 1964? A. My answer is no" (Steininger Tr. 45).

Mr. Joel Cohen, Assistant Counsel to HEW, gave his office's view of the Alabama regulation:

"With some over-simplification, just to try to be clear on this, if a policy is directed at the conduct of the mother, let's say, outside of the home, we would consider this, and in the situation, certainly where the children did not even know of the existence of the man, and this is overstating the situation, just to be very clear about it, *we would consider that a state policy that excluded that case from ADC was in violation of our suitable home policies,* * * *

"Now, in the case of the Alabama submittal, although everything was included under the terminology of substitute parent, *we considered that parts of that dealt particularly with conduct outside of the home, and presumptions arising from the birth of an illegitimate child and that sort of thing, were in violation of the suitable home policies, that had already been issued.*" (Italics ours.) (Steininger Tr. 76-77.)

POINT I

The substitute father regulation violates the equal protection clause of the Fourteenth Amendment and contravenes the purposes of the Social Security Act and the Alabama statutes in arbitrarily and irrationally classifying certain needy dependent children as ineligible for aid.

ADC financial assistance is a statutory entitlement under both the laws of Alabama, and the Federal Social Security Act, and where the child meets the statutory eligibility requirements, he has a right to receive benefits. The State's withholding of assistance on an irrational, arbitrary, and discriminatory basis denies the children affected the equal protection of the laws guaranteed by the Fourteenth Amendment to the Constitution of the United States.[23] *Gulf, Colorado and Santa Fe Railway* v. *Ellis,* 165 U. S. 150 (1896).

Alabama cannot pick and choose the mothers and children it will aid in a whimsical and capricious manner; it cannot exclude needy children from the program on an arbitrary or irrational ground, and it cannot classify some

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[23] A persuasive argument that the needy have a *right* to receive welfare aid is set forth in Reich, *Individual Rights and Social Welfare, The Emerging Legal Issues,* 74 Yale L. J. 1245 (1965), and Reich, *The New Property,* 73 Yale L. J. 733 (1964). See dissenting opinion of Judge Kaufmann citing the Reich articles in *Snell* v. *Wyman,* C. A. 67-2676, S. D. N. Y., Feb. 29, 1968, discussing the recipients' rights to "liberty and equality secured to them by the Fourteenth Amendment" (page 2 of the dissent). See also Reich, *The Law of the Planned Society,* 75 Yale L. J. 1227, 1265, 1267 (1967), discussing "equality in the sense of a minimum share in the Commonwealth," at 1265; and, Harvith, *Federal Equal Protection and Welfare Assistance,* 31 Alb. L. R. 210 (1967).

children as eligible and others as ineligible without a reasonable basis for distinguishing one class from the other. It may only create classifications which are rationally related to the purpose of the Federal and Alabama ADC statutes.[24]

The purpose of the Federal ADC statute (Title IV of the Social Security Act, 42 U. S. C. 601 et seq.) and the Alabama ADC statute (Code of Alabama, Title 49, 17) is to provide financial assistance to needy children who are deprived of the support and care of one of their parents. The Alabama statute requires the Defendants to furnish ADC financial assistance "on behalf of any needy child who is a dependent child as defined in the Federal Social Security Act". (Code of Alabama, Title 49, 17.) The Federal Act defines a "dependent child" as one who is "deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent." Parent refers only to a

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[24] See Harvith, *Federal Equal Protection and Welfare Assistance*, 31 Alb. L. R. 210, 229 (1967) and Connor, The Man in the House Rule, 2 Harvard Civil Rights—Civil Liberties Law Review, 299, 313 (1967), citing the filing of the complaint in this case. Appellants in the summary of their argument state "welfare agencies must restrict categories in order to include the most needy" (page 11 of their brief) but do not (nor can they) indicate how this regulation helps in achieving that purpose. Appellants state, at page 59 of their brief, that "the primary purpose of the regulation is to place the responsibility for support of the family on men who enjoy the privileges of a husband". The regulation on its face, and as applied to Mrs. Smith and the members of her class, is not in any way related to the issue of support. Mrs. Stancil, Appellee's caseworker, never even inquired into the question of Mr. William's financial responsibility or whether or not he was supporting Appellee (A. 125-148). Appellant King did not know of one case involving the 3,000 families whose aid was terminated because of the regulation's application where the substitute father ever contributed to the support of the children (A. 105).

person having a legal duty to support the children (42 U. S. C. 606).[25]

Despite the clearly stated legislative purpose of both the Federal and Alabama statutes, the Alabama "substitute father" regulation directs that because of the mother's con-

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[25] A holding by this Court to that effect will render unconstitutional many of the "substitute father" and "man in the house" regulations existing in other states. This kind of decision will have a greater effect than the reasoning of the Court below. The Federal Handbook of Public Assistance Administration, Part IV, §3412 (4), draws the critical distinction between men with a legal obligation to support the children and those with no such obligation, even though legally married to the mother. A stepparent is not a "parent" within the meaning of the Act unless he legally adopts the children. The Handbook states: "in the absence of legal obligation to assume a parental role, a stepparent is no more of a "parent" than any other person acting *in loco parentis*. In these situations, *the only safeguard* to the child's right to assistance is his eligibility under the condition of being deprived of the support or care of the natural parent. In states in which the stepparent is required to assume a parental role, a child may be deprived of support or care if the stepparent is dead, absent, or incapacitated. (Our emphasis.)

The other "parents" spoken of in Section 3412 are all *natural* parents (whether married or not) and *adoptive* parents (with a legal obligation to support). HEW will not qualify a child as eligible because of the absence of any other kind of "parent"; nor should the child be disqualified on the ground of the alleged presence of some other kind of so-called "parent".

The irrationality of welfare rules regarding substitute fathers is revealed by comparison with treatment of blood relatives who are responsible under law for the financial support of needy dependent children. In many states, including Alabama, persons other than parents are required by law to support needy relatives. Grandparents must support grandchildren, brothers and sisters must support one another, and so forth. See 44 Code of Alabama 8. But the existence of a legally liable relative cannot disqualify a needy dependent child from receiving ADC. Even if the relative lives in the child's home, has substantial income, and contributes to the child's support, the child remains eligible for ADC as long as the support contributions are not sufficient to meet the child's needs as estimated by the State. One child may live with his mother and

duct aid shall *not* be given to an eligible class of needy dependent children.[26]

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an employed grandfather who lives, cares for, and supports the child. Another may live with his mother and a man he barely knows, who has children elsewhere and provides neither support nor more than minimal care. Under the substitute father regulations in effect in Alabama and other states the first child receives ADC to supplement his grandfather's support while the second child is denied the aid he needs for the clothing and food essential to his survival.

"Parent" in non welfare situations is normally defined as "the lawful father or the mother of a person", *Appeal of Gibson*, 154 Mass. 378, 28 N. E. 296 (1891) and does not include a stepfather or stepmother or one standing *in loco parentis*, e.g., *Coakley* v. *Coakley*, 216 Mass. 71, 102 N. E. 930 (1913), Black Law Dictionary, 4th Ed., 1961. See also Connor, The Man in the House Rule, 2 Harvard Civil Rights—Civil Liberties Law Review, 299 (1967).

Appellants quote at length (pp. 22 to 28 of their brief) from Lewis and Levy, *Family Law and Welfare Policies*, 54 Calif. L. Rev. 748 (1966). Appellants miss the point of the article. The authors indicate that support should not be required from a "casual paramour" nor from one who does not live in the house and assume the role of father and spouse, nor from the stepfather who is not legally obligated to support the child (fn. 69 at p. 774). Support should be required from the stepfather who is legally married to the mother in those states where he can be compelled to support the child. It discusses only those "man in the house" rules that "authorizes the Welfare Department to consider the income of a male person assuming the role of the spouse" (p. 24 of Appellants' brief) and only those regulations that deal with "stable and openly acknowledged family relationships" (at 775). See Weynauch, Dual Systems of Family Law, 54 Calif. L. Rev. 780 (1966) for a critical review of the Lewis and Levy article. We should note our basic disagreement with those portions of the Lewis and Levy article that go beyond these points.

[26] There can be no doubt that the regulation is aimed at sexual conduct. The phrase "for the purpose of cohabitation" is repeated in each of the three clauses of the regulation defining the conduct which establishes the "substitute father" relationship. In each clause, the phrase is coupled with another element of the conduct: "liv(ing) in the house"; or "go(ing) elsewhere." "Cohabitation" in legal usage means only is "living together," Black's Law Dictionary (4th Ed.). Yet this cannot be the meaning here because it would make no sense to speak of "liv(ing) in the home or visit(ing)

It would be arbitrary and irrational even to infer that the phantom father is providing parental care and support to the children. The "substitute father" regulation presumes it. These regulations do not require that the man be living in the home and assuming the role of a father to the children. It is "enough evidence" that some man has had the "privileges of a husband" that the mother is pregnant or has a small child. The children need never have seen him and yet he is considered their father.

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the home but go(ing) elsewhere for the purpose of living together." If "living together" had been the phrase used, it would just as clearly have been another euphemism for sexual relations. Appellant King and all of Appellant's other witnesses testified "cohabitation" means "sexual relations" (A. 77).

The Alabama Department of Pensions and Security has explicitly confirmed that sexual intercourse is the conduct at which the regulation is directed:

> Under the [substitute father] policy, a man is considered a substitute father and liable for support of all the children, if, though not married to the mother, he has the *privileges of a husband.* (Annual Report, Alabama Department of Pensions and Security, Nov., Dec., 1964, p. 10.)

The term "privileges of a husband" is according to all the witnesses, another obvious euphemism for sexual relations. That this is the meaning of the term is also made clear by the regulation's only specific statement regarding evidence establishing the relationship: "Pregnancy or a child six months old or under shall be prima facie evidence of a substitute father." The only fact that can properly be inferred from pregnancy or the birth of a child is that the mother has had sexual relations with someone.

The Department confirms this interpretation in a statement issued as guidance to the substitute father regulation:

> Under the [substitute father] regulation county departments are directed to consider a man a substitute father and liable for support of all children in a home if, though not married to the mother, he has *privileges of a husband.* If the mother is expecting a child or has one six months old or under, this is considered *enough evidence* that the man is a substitute father. ("Interpretation of new ADC Policies of the Department of Pensions and Security", July, 1964. (A. 292) (Emphasis supplied.)

In *Harper* v. *Virginia State Board of Elections*, 383 U. S. 663 (1967), this Court stated:

> "We have long been mindful that where fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be clearly scrutinized and carefully confined. See, e.g., *Skinner* v. *Oklahoma*, 316 U. S. 535, 541; *Reynolds* v. *Sims*, 377 U. S. 533; *Carrington* v. *Rush*, 380 U. S. 89; *Baxtrom* v. *Herald*, 383 U. S. 107; *Cox* v. *Louisiana*, 379 U. S. 536."[27]

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[27] Appellant contends that the limitation of state funds justifies the arbitrary classification created by the substitute father regulation. See *Thompson* v. *Shapiro*, October Term, 1967, No. 813. The Supreme Court has repeatedly stated that constitutional protections may not be denied because of their cost to the State. *Griffin* v. *Illinois*, 351 U. S. 12, 1967. Thus, in *Edwards* v. *California*, 314 U. S. 160 (1941), a statute which prohibited persons from assisting indigent non-residents to enter the state was held unconstitutional despite California's effort to justify the statute on the ground that the influx of indigent persons in need of public assistance would create financial problems of "staggering" proportions (314 U. S. at 173). If protection of the public purse is not a proper justification for the arbitrary denial of legal rights to non-residents such a purpose cannot justify arbitrary classification of residents. Indeed, as this Court stated in *Hoeper* v. *Tax Commission*, 284 U. S. 206, 217 (1913):

> The state is forbidden to deny due process of law or the equal protection of the laws for any purpose whatsoever. The Equal Protection Clause requires that any classification made for the purpose of saving funds must rest on a distribution between the persons who comprise the respective classes which bears a reasonable and just relation to the purpose of the statutes with respect to which the classification is made.

The only reasonable method of effecting the ADC's purpose is to aid *all* needy dependent children by distributing available public assistance funds in an equitable manner, even if that results in a somewhat lower economic level of assistance for all needy children. The Social Security Act directs that aid "shall" be given to "*all* eligible" children, 42 U. S. C. 602. As the Supreme Court of Iowa stated in *Collins* v. *State Board of Welfare*, 81 N. W. 2d 4 (1957),

See also the dissenting Opinions of Mr. Justices Harlan and Stewart at pages 680-686.

This Court has employed two well-established and related standards in determining questions under the Equal Protection Clause. The first looks to the characteristic or trait determining the classification and finds that some classifications are by their nature suspect, and may only be utilized if there "clearly appears . . . some overriding statutory purpose . . ." *McLaughlin* v. *Florida*, 379 U. S. 184, 192 or "compelling justification" *Oyama* v. *California*, 332 U. S. 633, 640; the second looks to the purposes of the statute and the basis of the classification and requires that the two be reasonably related.

The discrimination against the excluded needy children in this case is unconstitutional under both these standards. Alabama in the substitute parent regulation has created two classes of needy children—one that can recover aid and one that cannot. The classification, based on the mother's conduct, the children's race and the status of their birth, is unrelated to the purposes of the Social Security Act, and is not justifiable under the Constitution.

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in holding a maximum grant provision to be violative of the equal protection provision of the State Commission:

> The amendment (the maximum family grant) on its face appears to be, and was, we think an economy measure. In effect, it is a subdivision of the original classification, i.e., dependent children, based solely on the number of children in the home, with no consideration as to need, a circumstance completely disconnected with the basic classification and purpose and reason therefore (citations). We think the amendment is clearly discriminatory between dependent children as defined in #239.1 (4), and is purely arbitrary and unreasonable in view of the announced purpose of the act.

See also *Department of Mental Hygiene* v. *Kirchner*, 60 Cal. 2d 716, 388 P. 2d 720 (1964).

In reference to the first standard, this Court has repeatedly affirmed that classifications based on race, status, ancestry, or morality, are "constitutionally suspect." *Bolling* v. *Sharpe,* 347 U. S. 497, 499; *Loving* v. *Virginia,* 388 U. S. 1; *Brown* v. *Board of Education,* 349 U. S. 294; and "subject . . . to the most rigid scrutiny," *Korematsu* v. *United States,* 323 U. S. 214, 216.[28]

This attack upon classification based on race, status, ancestry or morality "comes to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements." *Kovacs* v. *Cooper,* 336 U. S. 77, 95 (Frankfurter, *J.,* concurring). There is no room for the State to claim that the discrimination here should be sustained if there is any "rational basis" to support it. There should be no constitutional distinction between discrimination based on status, that based on race and that based on penalizing innocent children because of the conduct of their mothers; all of these discriminations are "constitutionally suspect."

The second constitutional standard—a reasonable relationship between classification and purpose—was stated as early as 1896 in *Gulf, Colorado & Santa Fe Ry.* v. *Ellis,* 165 U. S. 150, 155:

> "(T)he attempted classification . . . must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis."

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[28] This Court in *Skinner* v. *Oklahoma,* 316 U. S. 535 required "strict scrutiny of the classification" because of the right to procreate. It also spoke of the basic right to marry. The right to feed, clothe, shelter and keep alive a child eligible for aid is of like importance.

This standard has consistently been adhered to by the Court. As stated in *McLaughlin* v. *Florida*, 379 U. S. 184, 193, the question is "whether the classifications drawn in a statute are reasonable in light of its purpose . . .". Or, as laid down in *Traux* v. *Raich*, 239 U. S. 33, 42, "reasonable classification implies action consistent with the legitimate interests of the State. . . ." See also *Carrington* v. *Rash*, 380 U. S. 89, 93.

While the Equal Protection Clause does not always require an exact correspondence between the purpose sought to be achieved and the class encompassed by the statute, here there is complete lack of reasonable relation between the two. Judging 42 U. S. C. 606 in light of its purpose and the appropriate constitutional standard, it is plain that it is "arbitrary" and not a "reasonable classification" to deprive needy dependent children of aid on the grounds that their mothers are engaged in sexual conduct.[29]

One argument, relied on to justify the exercise of state police power in this general area, is the asserted right of a state to regulate sexual activity, and to discourage promiscuity. But as with illegitimacy, neither common sense nor practical experience supports the assumption that the regulation will deter illicit sex.[30] The facts are otherwise.

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[29] The only ground on which it may be permissible to terminate or reduce aid to those children is upon a showing at a fair hearing that they are receiving support from a man. Those regulations that allow for withdrawal of aid upon a mere showing that the substitute parent has an income but does not contribute to the children's support, also violate equal protection.

[30] In *Levy* v. *Louisiana*, Oct. Term 1967, No. 508, argued March 1968, the question presented was whether Louisiana Civil Code Article 2315 is invalid under the Due Process and Equal Protection Clauses because it denies a right of action to illegitimate children for the wrongful death of their mother, on whom they were de-

As Mr. Justice Fortas pointed out in his James Madison Lecture (New York University, 1967), studies cited in Bell, *Aid to Dependent Children,* p. 101, justify the conclusion that termination of aid because of substitute father regulations increases the number and percentage of out of wed-

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pendent, solely because of their status as persons of illegitimate birth. In some respects the Louisiana Court's rationale in upholding Article 2315 is similar to Appellant's argument. The Supreme Court of Louisiana wrote no opinion, and the sole justification given by the Court of Appeals of Louisiana for upholding Article 2315 discrimination against illegitimates was that "it discourages bringing children into the world out of wedlock." The Louisiana Court (and Appellants in this case) cite no evidence to support the reasonableness of this means of controlling illegitimate births. It would be truly remarkable if persons contemplating a sexual relationship or in the process of producing a child out-of-wedlock would be deterred by the possibility that the child might not be eligible for aid. The New York Times, March 31, 1968 p. 10E states " 'Illegitimacy' like 'Crime in the Streets' is becoming a substitute in many minds for the 'Negro' problem and there are signs that the new official toughness over illegitimacy in some communities is actually aimed at Negroes".

Some argue (Appellants' Brief, p. 39), that welfare mothers have illegitimate children solely to get increased state aid. The amount of money received is a small percentage of the child's actual "need" and is far below his, or his family's subsistence level. Even Appellants' Brief at page 39 states "social workers vigorously protest that mothers are not going to bring into this world a baby in order to receive a welfare grant of $11.69 a month." See Ellman, *The Poorhouse State,* Pantheon (1967). Hodding Carter in "The Negro Exodus from the Delta Continues," New York *Times,* Magazine Section, March 10, 1968, p. 26, discussing the Mississippi Welfare System, which is similar to Alabama's, states:

> "Another problem is the state's welfare system, which excludes as many potential recipients as possible and sets the payments so low that 'nobody can really take care of his basic needs,' as one welfare worker put it. Aid to Dependent Children averages $8.50 a week per family; the maximum is $50 a month, no matter how large the family. The official state standard of living for the aged adult living alone is $101.32 a month, but the maximum the Welfare Department can currently provide is $50 a month, because of the low level of legislative appropriations. These figures are not anything near the accepted poverty cut-off of $3,000 a year."

lock pregnancies. See also Mr. Justice White's concurring opinion in *Griswold* v. *Connecticut,* 381 U. S. 479, 485 (1965).[31]

Therefore there is a violation of due process because the State has arbitrarily barred certain children from receiving State aid "on a wholly arbitrary standard or on a consideration that offends the dictates of reason." *Schware* v. *Bd. of Bar Examiners,* 353 U. S. 232, 249 (Frankfurter, *J.*, concurring).[32]

Furthermore, the regulation violates the children's due process rights because both as applied and on its face it denies them rights on the basis of a status (caused by their mother's conduct) which they are powerless

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[31] Another argument urged by Appellants relies on the "promotion of family unity" theory. The theory is that the regulation helps to persuade the "substitute father" to marry the recipient. However, "family unity" is harmed rather than aided. The Report of the National Advisory Commission on Civil Disorders (Bantam Books, 1968), p. 459, states:

> "This so-called 'Man-in-the-House' rule was intended to prevent payments to children who have an alternative potential source of support. In fact, the rule seems to have fostered the breakup of homes and perpetuated reliance on welfare."

[32] While "the day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought." *Williamson* v. *Lee Optical Co.,* 348 U. S. 300; the substitute father regulation is not such a regulation but is rather akin to the statutes involving an aspect of personal liberty. As to such statutes the Court has required a showing under the Due Process Clause that some proper state purpose is being pursued through reasonable means. See, e.g., *Pierce* v. *Society of Sisters,* 268 U. S. 510; *Griswold* v. *Conn.*, 381 U. S. 479; *Poe* v. *Ullman,* 367 U. S. 497, 543 (Harlan, *J.*, dissenting). This requirement is consistent with the Court's statement in *Bolling* v. *Sharpe, supra,* 347 U. S. 499, that "The concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive . . ."

to correct.[33] This Court had recognized in several contexts that it is impermissible to hold an individual responsible for his status or for his conduct over which he has no control. *Robinson* v. *California*, 370 U. S. 660 (1962) involving a California statute making it a misdemeanor for any person "to be addicted to the use of narcotics." The Court ruled that the "status" of narcotics addiction is "an illness which may be contracted innocently or involuntarily" and that therefore any punishment for the condition is invalid as "cruel and unusual" under the Eighth and Fourteenth Amendments. Or, as Justice Harlan said in his concurring opinion, to subject an individual to penalty for a condition which he could not control is an "arbitrary imposition" by the State. 370 U. S. at 679. See also *Driver* v. *Hinnant*, 356 F. 2d 761 (4th Cir. 1966); *Powell* v. *Texas*, October Term, 1967, No. 405.[34] These cases are not distinguishable because they arise primarily in the criminal area. The denial of aid to a welfare recipient in Alabama is a penalty more severe than the imposition of a small fine or confinement in a civil or criminal institution. It may lead to damage caused by abject hunger and starva-

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[33] Professor Fuller asserts that a rule which an individual had no opportunity to obey is not a law at all but an arbitrary application of governmental force. L. Fuller, *The Morality of Law*, 39, 70-73 (1964).

[34] A recent article discusses the *Robinson* opinion and concludes, "Even the narrowest of these interpretations (supports) the notion that punishing a status involuntarily entered into and which cannot voluntarily be abandoned is unconstitutional," Amsterdam, *Federal Constitutional Restrictions on the Punishment of Crimes of Status, Crimes of General Obnoxiousness, Crimes of Displeasing Police Officers, and the Like*, 3 Crim. L. Bull. 205 (1967). This precisely describes the status of the children affected by the regulation.

See also the recent decision of the New York Court of Appeals holding that a vagrancy statute violates due process because it penalizes "a condition, such as one resulting from illness, over which

tion. The child deprived of food and shelter early in life will be damaged forever.

Oyama v. *California, supra,* brings us even closer to the instant case. There the Court struck down California's Alien Land Law that inflicted harm on a child due to the status of his father. In holding that extraordinary procedural burdens could not be imposed on a citizen in proving the ownership of land merely because his father was an alien ineligible for citizenship, the Court reiterated that distinctions based on ancestry are "by their very nature odious to a free people." *Id.*, 332 U. S. at 646.[35]

In sum, Alabama has denied rights to blameless individuals for the acts of others without justification and it has flouted some of the most conspicuous decisions of this Court holding that a State cannot harm individuals on the basis of their status. Such action by Alabama is arbitrary and therefore inconsistent with the Due Process Clause of the Fourteenth Amendment.

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an individual has no control." *Fenster* v. *Leary,* 20 N. Y. 2d 309, 314 (1967). Two other courts have reached the same result. *Baker* v. *Bindner,* C. A. No. 5648, W. D. Ky., Oct. 13, 1967; *Alegeta* v. *Commonwealth,* 36 U. S. L. W. 2324 (Mass. Sup. Jud. Ct., Nov. 1967).

NAACP v. *Overstreet,* 384 U. S. 118, is also on point. There the Court dismissed as improvidently granted a petition for certiorari which earlier had been granted, limited to the question whether the lower court, by holding the NAACP liable "for acts performed without its knowledge and by persons beyond its control," denied its right secured by the Fourteenth Amendment, 382 U. S. 937. Although a majority of the Court voted to dismiss the petition, thereby expressing no opinion on the merits, four Justices through an opinion of Justice Douglas concluded that it violated the Fourteenth Amendment to hold the NAACP liable for acts over which it had no control. *Id.*, 384 U. S. at 123-26.

[35] See Harvith, *The Constitutionality of Residence Tests,* 54 Calif. L. Rev. 567, 613 (1967).

POINT II

The vague and arbitrary standards and unreasonable procedures of the regulation violate the guarantees of due process of law, equal protection of the laws and the privilege against self-incrimination under the Fifth and Fourteenth Amendments.

Under the Alabama substitute father policy, a county welfare worker can deprive a mother and her small children of the aid they need for survival on the basis of the worker's (or the recipient's) unguided personal judgment—perhaps based only on hearsay—of a man's visits to the mother's home or the mother's relationship with a man elsewhere. The worker need not be certain; indeed, she is directed to act before she is certain and as soon as a forbidden relationship "appears" to exist. Once the worker has acted, the mother, under the most favorable application of the policy, can only try to carry her burden of proof, to the satisfaction of the worker, that the "relationship" has "terminated". Not until she is granted a hearing (long after the termination of aid) can she attempt to dispute the caseworker's determination and show that the relationship has terminated.

A. Appellee and Members of Her Class Have a Right to a Fair Hearing Prior to Termination.

Only a due process hearing can insure the individual recourse from arbitrary government action which may be inconsistent with the Constitution.[36]

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[36] Each year approximately three million people find their public assistance discontinued. Note, *Withdrawal of Public Welfare: The Right to a Prior Hearing*, 76 Yale L. J. 1234, 1236 (1967). See Bell and Norvell, *Texas Welfare Appeals, The Hidden Right*, 46 Tex. Law Rev. 223 (1967).

The requirement that a hearing, whether before the agency or before a court, be held to protect interests of the affected individual is more than a requirement for formal proceedings. It is necessary that the individual be given a realistic opportunity to confront and come to grips with the reasons for adverse action taken by the government. As this Court stated in *Willner* v. *Committee on Character and Fitness,* 373 U. S. 96:

> It does not appear from the records that either the Committee or the Appellate Division, at any stage in these proceedings, ever apprised petitioner of its reasons for failing to be convinced of his good character. Petitioner was clearly entitled to notice of and a hearing on the grounds for his rejection either before the Committee or before the Appellate Division. 373 U. S. at 105.

Thus, a hearing is necessary before an individual may be denied admittance to the state bar (*Willner* v. *Committee on Character and Fitness,* 373 U. S. 96); before a person may be denied the privilege of practicing before the Board of Tax Appeals (*Goldsmith* v. *United States Board of Tax Appeals,* 270 U. S. 474); before a state college professor may be dismissed for invoking the privilege against self-incrimination (*Slochower* v. *Board of Higher Education,* 350 U. S. 351); before individuals may be disbarred from receiving governmental contracts (*Gonzales* v. *Freeman,* 334 F. 2d 570 (D. C. Cir. 1964)); before a student may be expelled from a state university (*Dixon* v. *Alabama State Board of Education,* 294 F. 2d 150 (5th Cir. 1961), cert. denied, 368 U. S. 930 (1961)); and before a liquor li-

cense may be denied (*Hornsby* v. *Allen*, 326 F. 2d 605 (5th Cir. 1964)).[37]

Clearly, Mrs. Smith and the members of her class have their essential interests at stake when benefits vital to life are withdrawn. While the Social Security Act (42 U. S. C. 602(a)(4)) and 49 Code of Alabama 17(18) provide for a "fair hearing" in such cases, the hearing actually provided for by Alabama is hopelessly unfair and long delayed. Months may pass without decision and without the financial assistance which may have been wrongfully withheld. The very lives of the children involved are imperiled. Reich, *Individual Rights and Social Welfare*, 74 Yale L. J. 1245, 1253, Bunnis and Fessler, *Constitutional Due Process Hearing Requirements in the Administration of Public Assistance*, 16 Am. U. L. Rev. 199, 217 (1967).[38]

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[37] The right to a hearing is frequently denied in those cases involving government employee loyalty programs and aliens and passport issuance. The underlying rationale for their denial in those cases is the presence of questions concerning national security and foreign relations. In less sensitive areas such as licensing, qualification to contract with the government and attendance at state schools, the federal courts have discarded the "privilege" label and created a due process requirement for a full trial type hearing. (Note, *Withdrawal of Public Welfare: The Right to a Prior Hearing*, 76 Yale L. J. 1234, 1244 (1967).)

[38] Public assistance benefits are calculated to meet recipients' *minimum* needs for living after all other income is considered. In Alabama ADC recipients gets 41% of their need. During the period of time in which the recipient is waiting for a hearing decision, she is living far below the level which defendants themselves state to be necessary for survival and decency. Such suffering, dangerous to the maintenance of life, cannot be remedied once endured.

> "taken together, these considerations compel the conclusion that the government interest in guarding the public treasury by postponing hearings should not justify subordination of the private interest in the individual cases and, *a fortiori*, in the totality of cases. The recipient should have a constitutional

In *Dixon* v. *Alabama,* 294 F. 2d 150 (1961), the Fifth Circuit held that a state supported college might not, consistently with due process, expel a student before granting him notice of the reasons and opportunity for a hearing with at least "the rudiments of an adversary proceeding." 294 F. 2d at 159. Accord, *Woods* v. *Wright,* 334 F. 2d 369 (5th Cir. 1964); *Knight* v. *State Board of Education,* 200 F. Supp. 174 (D. M. D. Tenn. 1961). Cf. *Thorpe* v. *North Carolina,* 386 U. S. 670 (1967), concurring opinion of Mr. Justice Douglas.

The Court, in *Dixon* (at page 157), held the existence of reasonable regulations (not found in this case) to be irrelevant.

> There may be arbitrary application of the rule to the facts of a particular case. Indeed, that result is well-nigh inevitable when the board hears only one side of the issue.

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right to a hearing before his welfare payments are discontinued." Note, *Withdrawal of Public Welfare: The Right to a Prior Hearing,* 76 Yale L. J. 1234, 1244 (1967).

The state can recover the monies "wrongfully" paid from the time the grounds for reducing aid are discovered until the time of the hearing. It may be that the recipient will not have monies to pay back the government. In the majority of cases the amount of the government's loss is minimal. For example, in July, 1966 the average payment involved would have been approximately $43 per person per month. Note, *Withdrawal of Public Welfare: The Right to a Prior Hearing,* 76 Yale L. J. 1234, 1236 (1967). This is a good deal less than keeping a student in school during the same period. See *Dixon* v. *Alabama,* 294 F. 2d 150, 5th Cir. (1966).

Against the argument that the cost of continuing assistance to the individual recipients is relatively slight, some may contend that the large number of recipients involved will make the cost so high as to justify subordinating the recipient's interest. As the dollar cost to the public is multiplied so are the number of suffering individuals multiplied. The balancing equation is multiplied on both sides.

The nature of the individual's interest is more imposing here than in *Dixon*. In *Dixon* the governmental action deprived the students of their means "to earn an adequate livelihood, to enjoy life to the fullest" (294 F. 2d at 157), here the termination of aid withdraws recipient's lower than subsistence-level income. The injury here is direct, immediate, irreparable.[39]

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[39] Although provisions of the Manual imply that a 50-day limitation applies to the holding of the hearing if the recipient requests it (V 10), and a three week limitation to the issuance of the decision (V 11), the Manual does not specify any overall time limitation. Having been without aid for at least 71 days, more than two payment periods, the claimant, if the decision were in her favor, would not receive an award covering that period. The Manual makes no provision for retroactive payments upon a fair hearing decision, and hence the power of ex parte peremptory termination is the power to suspend entitlement under the eligibility criterion (Manual III 52-53; V 11-13).

Additionally, notice and hearing prior to effective action are required, because such a procedure is the only means of ensuring the availability of a hearing at all. The brutal need of the recipient erroneously denied assistance will make her less able to pursue the subsequent hearing now available. Faced with the need to live, she can scarcely devote the time and energy necessary to prove the relationship has terminated and to show her continued eligibility. Because of this it is rare that recipients ever request a hearing after termination of payments. In Illinois appeals were filed in less than one-third of one per cent of the 33,000 public assistance cases closed between July, 1963 and June, 1964 for reasons other than death of the recipient and in Texas 0.69% at the recipient's termination sought review. Bell and Norvell, *Texas Welfare Appeals, The Hidden Right*, 46 Texas Law Rev. 223 (1967). Bell, *op. cit.* p. 116.

The five county directors and a caseworker testified in this case that there had been no appeals under the regulation (A. 205, 207, 208, 219, 225). Appellant King testified there had been 5 appeals in the entire system since he took office 3½ years ago (A. 92). The generality of the notice of reason for the termination ("substitute father policy"), and the failure to advise of the right of appeal discourages belief that there may be any specific basis of con-

Appellants claim that the promulgation of fair hearing regulations by HEW moot this aspect of Appellees' claim. First, it should be noted that the new federal rules do not conform to constitutional standards. They do not, for example, provide for a fair hearing prior to termination. Secondly, as of the time of writing this Brief, the *only* states that are promulgating "fair hearing" rules, have been those where federal suits have been filed and the states have felt compelled to issue new rules. *Williams* v. *Gandy,* CA 728 N. D. Miss. Nov. 2, 1967; *Kelly* v. *Wyman,* CA 68-394 S. D. N. Y. (1967). Alabama does not even claim that they have changed the policies that existed when Mrs. Smith lost her aid. HEW's inability to compel state agencies to adopt procedures that are costly to the state and will, in the long run, increase the amount of aid given leaves little doubt that absent federal judicial intervention the states will not adopt constitutionally acceptable fair hearings. HEW is certainly not going to withhold aid from Alabama because they have not adopted fair hearing

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testing the determination. The Alabama figures appear to be less than .01%.

If Appellants were required to grant reasonable notice and opportunity for a hearing *before* termination benefits, a sense of care and caution in the administration of the regulation might arise which would make it possible for the recipient to have a meaningful hearing. None is likely so long as county departments are authorized to terminate peremptorily and ex parte.

Mr. Justice Brennan's opinion in *Berman* v. *Parker,* 348 U. S. 26 (1954) is pertinent:

> "Miserable and disreputable housing [welfare] conditions may do more than spread disease and crime and immorality. They may also suffocate the spirit by reducing the people who live there to cattle. They may, indeed, make living an almost insufferable burden. The misery of housing [welfare] may despoil a community as an open sewer may ruin a river. The concept of public welfare is broad and inclusive . . . The values it represents are spiritual as well as physical, aesthetic as well as monetary (*id.* at 32-33).

rules. (Cf. *Thorpe* v. *North Carolina*, 386 U. S. 670 (1967).) See Steiner, *Social Insecurity, The Politics of Welfare;* Rand McNally 1966. Alabama's previous history in this area discourages any hope that they will change the system without judicial decree.

B. The Vague Standards and Unreasonable Procedures of the Policy Violate the Guarantees of Due Process of Law, Equal Protection of the Laws, and the Privilege Against Self-Incrimination.

1. The Vagueness of the Standard and the Failure to Allow Mrs. Smith to Confront and Cross-Examine Her Accusers

The regulation, because it sets forth no standards of application, has led welfare workers in many cases to abandon their judgment entirely and pass this legal question to the recipients by simply asking them whether the relationship was "permanent" or "continuous." This obviates their definition of terms and evaluation of evidence.[40] But this is hardly a mitigation of the regulation's severity; in Greene County one family lost several months' benefits, to which they were entitled, because the mother made a mistake, or used the wrong words, in predicting whether the man would return (A. 21).

The regulation itself makes no distinction as to the value of evidence, nor does it specify what rate of visits makes them "frequent," or what time period is to be considered; or whether "frequency" may vary from case to case. Because these are obvious and easily answered questions, the policy's silence on them gives Appellants' employees complete discretion. Some of Appellants' employees testified

[40] See *Rowoldt* v. *Perfetto*, 355 U. S. 120, on the validity of a claimant's judgment adverse to himself.

candidly that "we don't know" what "frequently" and "regularly" mean. Appellants' other employees agreed that the terms were susceptible of different application in each case (A. 84, 86), but disagreed on the outside limits whether six months (A. 172) or a week (A. 84).

Appellants have delegated power over families' existence to the welfare worker, and in many cases, to malicious neighbors or careless gossips. Careless or indicative words may trigger the informal finding of the "appear[ance] of a substitute father." Appellants' employees acknowledged the power of malicious informants (A. 154). The substitute father policy is administered by social workers who may, as in the case of Mrs. Smith, take peremptory action terminating aid, uninhibited by any requirement of a prior hearing or by any meaningful appeal mechanism.[41] Even if there were a meaningful appeal, the language of the regulation would afford the mother small quarter for argument.

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[41] In *Rios* v. *Hackney* (CA 3—1852, N. D. Tex. Dallas Div., Nov. 30, 1967), a federal district court held a welfare recipient (whose aid has been terminated because of an alleged substitute father) must be returned to the rolls because the requirements of due process had not been complied with in the hearing and decision making process that reviewed the cutoff. The court found: (1) no evidence supporting the agency's action had been adduced; (2) the agency's action had been arbitrary and capricious; and (3) reliance had been put entirely on hearsay evidence and there had been no opportunity to cross-examine the persons making charges.

In an administrative proceeding, "it is not proper to admit ex parte evidence, given by witnesses not under oath and not subject to cross-examination by the opposing party." *Hornsby* v. *Allen*, 326 F. 2d 605, 608 (5th Cir. 1964); see also *Bridges* v. *Nixon*, 326 U. S. 135 (1945). Yet the policy tells the worker simply: "When there *appears* to be a substitute father, disapprove an application or terminate aid . . ." The standard here is subjective, the judgment personal.

The regulation may be judged by its tendency and effects. *Gomillion* v. *Lightfoot*, 364 U. S. 339 (1960); *Lane* v. *Wilson*, 307 U. S. 268 (1939). It must be judged, therefore, not as a serious interpretation of eligibility, but as a statement encouraging arbitrary termination of aid. The function of the eligibility criteria set forth by the Social Security Act and the Alabama legislation is to establish entitlement to aid and to enable persons who may be entitled to make their claims on the basis of objective standards. The Social Security Act provides "that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid . . . shall be furnished with reasonable promptness to *all eligible* individuals." 42 U. S. C. Sec. 602(a)(9). Due process requires that an administrative agency or officer charged with the administration of a statute base orders and decisions on findings of fact which have some relation to the statutory criteria. It is a denial of due process to promulgate and apply a regulation which is designed to subvert the criteria of eligibility and to encourage, the arbitrary termination of aid. *S. E. C.* v. *Chenery Corp.*, 318 U. S. 80 (1943); *Hornsby* v. *Allen*, 326 F. 2d 605 (5th Cir. 1964); *Boudin* v. *Dulles*, 235 F. 2d 532 (D. C. Cir. 1956).

Because it is impossible to calculate what personal discrimination this specious discretion may accommodate, the regulation may also be judged on its face. The vice of investing power in administrative officials without standards is that the authorization makes possible any kind of discrimination and abuse, not only racial but also personal, political and religious.[42]

[42] It has been established that the statutory or administrative authorization which by its lack of standards makes such discrimina-

2. *The Burden of Proof*

a. The Regulation Is Unconstitutional in Placing the Burden of Proof on the Mother to Show the Relationship Never Existed and to Prove It Has Terminated

We know that "the procedures by which the facts of the case are determined assume an importance fully as great as the validity of the substantive rule of law to be applied." *Speiser* v. *Randall*, 357 U. S. 513, 517, 1958. The regulation's burden of proof provision is constitutionally defective for it is not a measured allocation of responsibility for the evidence.[43] The regulation states that once the worker has found that there appears to be a substitute father, "the burden of proof rests with the mother." The imposition of the burden of proof (combined with the regulation's "prima facie evidence" criteria) denies due process for it tends to operate conclusively, requires a showing

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tion possible may be shown to be void on its face. In *Yick Wo* v. *Hopkins*, 198 U. S. 356 (1886), which involved discrimination against Chinese in the licensing of laundries in wooden buildings in San Francisco, the Court held the regulation void on its face, identified as in itself a constitutional defect of the ordinance that it "confer[red] . . . a naked and arbitrary power to give or withhold consent, not only as to places but as to persons . . ." 198 U. S. at 366. In *Louisiana* v. *United States*, 380 U. S. 145 (1965), an action to have declared invalid a Louisiana test requiring that an application for voter registration be able to give a reasonable interpretation of the Louisiana or the United States Constitutions, the Court affirmed the district court's ruling that the unlimited "discretion" in the registrars made the test "invalid on its face. . . ." 380 U. S. at 150. See also *Davis* v. *Schnell*, 81 F. Supp. 872 (D. S. D. Ala. 1949), affirmed 336 U. S. 933 (1949).

[43] One of the justifications for midnight raids of welfare clients (and a justification for the procedures set forth in determining who the substitute parent is) is that it cuts down on Welfare fraud. In *Parrish* v. *California*, 66 Cal. 2d 253 (1967), the Court noted that midnight raids "indicate so marked a lack of congruence between the scope of fraud as to deprive that procedure of any constitutional justification" (*id.* at 257).

unduly difficult for the mother to make and entails surrender of the privilege against self-incrimination.

The regulation states two cases which give rise to a presumption relevant to the mother's burden of proof. "Pregnancy or a baby six months or under is a prima facie evidence of a substitute father . . . " If a "substitute father" denoted merely the act of sexual intercourse between the mother and a man at some point in time, this creation of the presumption alone would not violate the requirements of due process. But it is agreed that the "substitute father relationship" means more than an isolated sexual act.

Cases are also routinely terminated where there is neither a pregnancy nor a baby under six months. The basis for determination may be an informant's statement (A. 154). The existence of such evidence shifts the burden of proof to the mother. There is not necessarily any rational relation between such existence of such "evidence" and the imposition of the burden of proof on the mother. Such a rational relation would derive from the character and weight of the evidence underlying the finding.

It is the inevitable tendency of the regulation's imposition of the burden of proof on the mother to be applied as if it represented a conclusive presumption. Hence, the regulation "under the guise of regulating the presentation of evidence, operate[s] to preclude the party from the right to present his defense to the main fact thus presumed" in violation of due process. *Mobile, J & KC RR.* v. *Turnipseed,* 219 U. S. 35, 43 (1910); *Heiner* v. *Donnan,* 284 U. S. 312 (1931).[45]

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[45] There is no rational connection between a mother's sexual relations with a man, who has no legal obligations to her children, and a conclusion that the man is acting as a father and is supporting the

The burden of proof requirement renders the regulation unconstitutional because it is so difficult for the mother to carry. The mother in addition to presenting her version

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children. Even if it were established that the man was not supporting the children, they would still be ineligible for ADC under the "substitute father" regulation, which states that only the fact of the relationship may be rebutted, not the presumption of support. See also *Heiner* v. *Donnan*, 284 U. S. 312, 329 (1931); *Carrington* v. *Rash*, 380 U. S. 89, 96 (1964). The Constitutional prohibition against irrebuttable presumptions is as applicable to administrative determinations as it is to those forming the basis of judicial decisions. See *Luria* v. *United States*, 231 U. S. 9, 25 (1913); *Adler* v. *Board of Education*, 342 U. S. 183, 190 (1952); *Slochower* v. *Board of Education*, 350 U. S. 551, 559 (1955). A recent analysis concluded that under these cases:

> "The substitute father rule . . . violates due process for two reasons. First, it creates an arbitrary presumption; there is no a priori reason to assume that a man acting as surrogate husband must also be acting as surrogate father to children he has no legal duty to support . . . Second, even if experience shows that the presumption is not arbitrary, it still fails because the applicant may not disprove the dispositive fact presumed in her case; although the mother might establish non-support of her children, she still loses her AFDC payments because she is permitted to rebut only the fact of illegal relationship and nothing more." Note, *Welfare's Condition X*, 76 Yale L. J. 1222, 1231 (1967).

The nature of decisions about sex and sexual morality when combined with the placement of the burden on the mother, often leads the welfare worker to substitute a moral judgment for findings of fact.

The case of Miss Jane Henley, a welfare recipient of Greene County, Alabama, set forth in Appellees' Exhibit 45A is illustrative. Miss Henley stated that she has seven children, five of whom were under 18. Miss Henley's caseworker, Mrs. Prout, stated that she had terminated aid to the Henley family in July, 1964, on the basis of the substitute father regulation. Miss Henley's child, Carnell, was then about five months old. Mrs. Proust stated:

> "She [Miss Henley] stated that she was not continuing to have sexual relations with Mr. Knott [the child's father] at this time. I interviewed Mr. Knott on June 12th, 1964 at which time he admitted paternity . . . and stated that he is continuing to 'go with' the mother, by which expression I understood Mr.

of the facts must also have "evidence . . . corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers." But the policy's examples of proof imply that the mother may not just show the man's absence, but has an affirmative burden to establish a fact consistent with the continuation of the relationship. This is constitutionally impermissible. Cf. *Shaw* v. *United States,* 357 F. 2d 949 (Ct. of Claims, 1966). If the mother establishes that the man has been imprisoned or has married and is living with another woman, it is unreasonable to require her to obtain witnesses to prove that she is not carrying on a forbidden relationship. Furthermore, law-enforcement officials would almost always be unapproachable from the woman's standpoint and her neighbors may be the very informants who had her aid terminated. The policy thus tosses her back on the mercy of the community and the due process to neighborhood good will. In a case where the man has left the area and the mother does not know where he is, the policy does not suggest by

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Knott to mean that he was continuing to have sexual relations with Miss Henley."

Thus, aid was terminated on the basis of Mrs. Prout's preference of Mr. Knott's vaguer description of the relationship, from which she *inferred* a fact contrary to Miss Henley's direct and specific statement. Yet aid has never been restored to the Henley family, although Miss Henley is now 38 years old and her youngest child is age 3. Miss Henley stated:

"The last time I went in was winter before last. I had no income and hadn't worked since summer when I had worked in the fields. I was getting government commodities and was staying at my sister's house. The welfare worker told me, 'You should have known better than to come back and apply—we already told you that you couldn't get help.' . . . I told her I didn't have a man staying with me. The welfare worker told me they still couldn't put me on."

what "evidence" she might discharge her burden. She must do all this while she has no source of income and in light of the very remote possibility of her eventual success. (See Bell and Norvell, *Texas Welfare Appeal, The Hidden Right,* 46 Tex. L. Rev. 223 (1967).)[46]

b. The Burden of Proof Requirement Is Unconstitutional Because It Requires Surrender of the Privilege Against Self-Incrimination

Due process is violated when the receipt of benefits is conditioned upon the surrender of constitutional rights. *Sherbert* v. *Verner,* 374 U. S. 398, 404; *Parrish* v. *California,* 66 Cal. 2d 253 (1967). O'Neil, *Unconstitutional Conditions:*

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[46] Due process requires that, in the imposition of a burden of proof, consideration be given to the relative advantage of the parties, and, as to each, the convenience of proof, *Morrison* v. *California,* 291 U. S. 82, 91, 94 (1934). Without counsel, or lay assistance, the mother, in over 99% of the cases, does not pursue the matter any further. So long as the Appellants prescribe the termination of vital benefits without prior hearing, they should bear a heavy burden of justifying the regulation in terms of due process. Here the information about the man's whereabouts are not necessarily more accessible to the mother than to the County Department, and in many cases less so. The County Department has extensive relations with other government and social agencies, which it uses for other similar purposes such as verifying a father's income. The mother is also deterred from attempting to carry her burden by her desire for privacy. Another element is the possible criminal prosecution to be brought against the father or the mother of the child. It has long been held that in a civil proceeding to deport an alien on grounds of conduct subsequent to his entry, the government bears the burden of proof. "It goes without saying that, under the presumption of innocence which exists in his favor and the due process clauses of the Constitution, the burden rests on the state or government which in some formal proceeding, criminal or otherwise, undertakes to establish the fact." *Hughes* v. *Tropello,* 296 F. 306, 307 (3d Cir. 1924). "Unless this burden is meticulously maintained, discharge [from the Army] for race, for religion, for political opinion or for beliefs may masquerade under improved charges." *Beard* v. *Stahr,* 370 U. S. 41, 43 (1962) (separate opinion of Douglas, *J.* and Black, *J.*); *Wood* v. *Hoy,* 266 F. 2d 825 (9th Cir. 1959).

Welfare Benefits with Strings Attached, 54 Calif. L. Rev. 443 (1967). Note, *Unconstitutional Conditions,* 73 Harv. L. Rev. 1595 (1960). The State cannot condition a benefit on the individuals carrying the burden of proving his eligibility when meeting that burden entails surrender of constitutional rights. In *Speiser* v. *Randall,* 357 U. S. 513 (1958), the Supreme Court held that a California procedure which placed on the taxpayer, as a condition of gaining a tax exemption, the affirmative burden of proving that he had not engaged in political speech violated due process.

The privilege against self-incrimination extends to information which would furnish a link in the chain of evidence needed to prosecute for a crime. *Hoffman* v. *United States,* 341 U. S. 479 (1951). See also *Spevack* v. *Klein,* 385 U. S. 511 (1967); *Garrity* v. *New Jersey,* 385 U. S. 493 (1967). The regulation places the burden on the claimant, once the welfare worker has made a finding that there "appears" to be a substitute father, to prove the termination of the relationship. The claimant in attempting to sustain this proof must put into the hands of the welfare department and into the hands of the prosecutor, evidence which would support, or supply investigative leads for, a prosecution of her for adultery or welfare fraud.

Alabama contends that appellees waive their Fifth Amendment rights as a condition of their getting aid and that their is no real showing of potential self-incrimination.[47] In *Parrish* v. *California,* 66 Cal. 2d 253 (1967), the

[47] The central standard for the privileges application has been whether the claimant is confronted by substantial and "real" and not merely trifling or imaginary hazards of incrimination. The risks of criminal prosecutions confronted by Welfare recipients are not "remote possibilities out of the ordinary course of the law." *Heike* v. *United States,* 277 U. S. 131. See also *Haynes* v. *United*

Welfare Department contended the recipient's consent to midnight raids and attendant searches and seizures were a necessary "condition" to the receipt of benefits and that

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States, 388 U. S. 150; *Grosso* v. *United States,* 388 U. S. 145; *Rogers* v. *United States,* 340 U. S. 367, 374; *Brown* v. *Walker,* 161 U. S. 591, 600. In the last year there have been a multiplicity of suits, both criminal in nature and suits to take children away from their mothers, as part of welfare crackdowns. In New Jersey fornication prosecutions were commenced against 1000 welfare mothers who had one or more illegitimate children. Paterson Municipal Court Judge Kushner ordered the criminal prosecutions of the mothers to "make the fathers of illegitimate children pay support." Bulletin, American Civil Liberties Union of New Jersey, Vol. 3, No. 4 (1). Monmouth County, New Jersey had started the same procedure (*id.* p. 4). A similar crackdown occurred in Maryland, where 200 fraud prosecutions (based on the fact that male friends were near the home and were presumed to be supporting the mother's children and that the mother failed to so advise the Department) were commenced. The Welfare Board of Prince George's County in Maryland began proceedings in 1967 to take children away from mothers on the grounds that they were neglected, where the mother, in her application for welfare aid, indicated one of her children was illegitimate. See, for example, *In Re Cager,* Court of Appeals of Maryland, September Term 1967, No. 353. The *Washington Post,* August 29, 1967 p. 16 sets forth the following report from Maryland's Circuit Judge Bowen court room: "At a hearing yesterday Bowen indicated he agreed with the prosecution's position that simply by having several illegitimate children a woman is guilty of criminal neglect."

See also N. Y. Times, "It's Tough to Be Illegitimate," March 31, 1968, p. 10E stating "Thus when Louisiana and Mississippi recently made it a crime to have more than two illegitimate children and a Maryland judge ruled that unwed mothers must practice birth control or lose custody of their children, Negro leaders saw the actions as being aimed privately at their race."

Some feel that the crackdown on ADC recipients (which is disproportionately Negro) is an attempt to strike back at Negroes. (See Loren Miller, *Race, Poverty and the Law,* 54 Calif. L. Rev., 380 (May 1966).) Professor Moynihan, in "The Crisis in Welfare" (Governor Rockefeller's Welfare Conference (1968)) states the same fact differently. He points out (at p. 66) that AFDC has changed from what was originally a widow's program to a Negro program and that, "from being a program designed to aid unfortunate individuals, AFDC gradually turned into a subsistence pro-

the raids need not meet "criminal standards" because the searches were "designed primarily to secure proof of welfare ineligibility so as to reduce the number of persons

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gram for individuals and for a class . . . This silent transformation is the essential fact behind the present crisis in Welfare. The public is beginning to see it as a crisis in public expenditure. Social scientists are beginning to see it as a crisis in social structure: the development of a permanently dependent class. And the members of that class are beginning to see, in the inadequacies of the system, the source of their dependency, to a point that an even greater crisis must be created in order to force the larger society to change the system." See also, May, The Wasted Americans, Signet, 1963, Introduction and Chapters 1 and 6.

14 Code of Alabama 16 makes adultery an offense punishable upon first conviction, by six months imprisonment and a fine of at least $100. See Note: *Dependent Children and Special Welfare Legislation*, 15 J. Publ. L. 349, 360, n. 50 (1966) (discussing the possibility of criminal prosecution under the substitute father policy of Georgia, whose terms are similar to Alabama's).

49 Code of Alabama 17 (21) makes criminally liable,

> Any person who by means of a false statement knowing it to be false, or by wilful misrepresentation, impersonation or other fraudulent device, obtains or attempts to obtain . . . a public assistance grant . . . to such person is not entitled . . .

Welfare fraud is punishable to twelve months hard labor and a fine up to $500. This provision is not explicitly limited to misrepresentation or concealment of income or resources. By its terms it is sufficient that the recipient was technically ineligible and that he knowingly misled the Department of Pensions and Security as to that factor of eligibility, regardless of whether the family continued to be in need. This seems to be the administrative construction of the statute (Manual III 46, 47), and the Manual requires that a claimant be told, at the initial interview, that she may be criminally prosecuted for "misrepresentation of facts." Manual I 8. *Cf.* Tit. 114, La. Stat. Ann. So long as a family is made ineligible by the mother's relationship with an unrelated man, her revealing this relationship will tend to incriminate her under 17 (21).

The Manual's provisions for confidentiality of information reach principally to public disclosure (V 12-15, dated March 1967). Tit. 49-17 (8) of the Alabama Code *requires* county directors to submit to grand juries, *upon request*, lists of persons receiving public assistance and provides that "confidential information" may also be submitted for purposes "directly connected with" grand jury "investigations" of the administration of public aid.

on welfare rather than to lay the basis for criminal prosecutions" (at 256). The court rejected these arguments stating "the County could not constitutionally condition the continued receipt of welfare benefits upon the giving of such consent" and that the Welfare Department "cannot now effectively preclude the possibility that, in an appropriate case, it would not have undertaken criminal proceedings on the basis of evidence secured in the operation. That possibility suggests the danger that the administrative officer who invades the privacy of the home may be only a front for the police who are thus saved the nuisance of getting a warrant" (at 256).

Some of the questions which a welfare worker asks a claimant about the substitute father directly relate to an adultery offense. How often did the couple have sex? Was the man married? Was it in or out of the home? Was it a continuous sexual relationship. These questions are relevant to a criminal prosecution, since adultery cannot be established by a single act or even occasional acts of illicit intercourse, but requires a continuing pattern or an agreement to continue. *Burgett* v. *State*, 37 Ala. App. 469 (Ct. App. Ala. 1954); *Wilson* v. *State*, 34 Ala. App. 219 (Ct. App. Ala. 1949). The regulation requires the recipient to bring forth two witnesses to corroborate her statements that the relationship was terminated (hence that it existed). Thus she is compelled to show the state their witnesses and the direction of their investigation for a prosecution for adultery in exchange for continuing to receive benefits.

The state's interest here, in conditioning continued public assistance benefits upon the claimant's disclosure of her social and sexual relationships, can hardly bear comparison with New Jersey's interest in *Garrity* v. *New Jersey*, 385

U. S. 493 (1967) in uncovering police and judicial corruption.[48] Even where the government has undertaken by statute to compel disclosure of activities on the basis of its interest in self-preservation, the disclosure requirement cannot require the waiving of the privilege. *Communist Party* v. *United States*, 331 F. 2d 807 (D. C. Cir. 1963); *Albertson* v. *Subversive Activities Control Board*, 382 U. S. 70 (1965).[49] It follows necessarily that Alabama cannot, consistently with the Constitution condition Appellee's continued receipt of aid on her disclosure of her relationship with an alleged "substitute father."[50]

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[48] *Spevack* v. *Klein*, 385 U. S. 511 (1967) and *Garrity* v. *New Jersey*, 385 U. S. 493 (1967) dictate the result in this case. In *Spevack* v. *Klein*, a New York attorney refused to submit certain required financial records on the grounds that they would tend to incriminate him. The Appellate Division ordered him disbarred. disbarment (his right to employment of his choice) because of his claim of the privilege in a disciplinary proceeding. In *Garrity* v. *New Jersey*, policemen had been interrogated by state investigators about corruption in certain municipal courts. The policemen were told that the privilege was available to them but that its exercise would subject them to removal from office. The Court said:

> "The choice given petitioners was either to forfeit their jobs or to incriminate themselves. The option to lose their means of livelihood or to pay the penalty of self-incrimination is the antithesis of free choice or to remain silent. That practice, like interrogation practices we reviewed in *Miranda* v. *Arizona*, 384 U. S. 436, 464-651 is "likely to exert such pressure upon an individual as to disable him from making a free and rational choice." We think the statements were infected by the coercion inherent in the scheme of questioning, and cannot be sustained as voluntary under our prior decisions" (385 U. S. at 497-98).

[49] Appellants contend that the privilege is waived by Mrs. Smith's response to their questions at the first interview with the case worker ("he stayed overnight") and cannot be asserted here. Mrs. Smith made First and Fifth Amendment claims at the trial. In *Parrish* v. *California*, 66 Cal. 2d 253, 258 (1967) the Court held that recipients in permitting the investigators into their home gave their consent unwillingly. The court said that "the threat of loss

POINT III

Alabama's substitute father regulation unconstitutionally invades the privacy of mothers receiving ADC and imposes an unconstitutional restriction on their lives and liberty.

In *Parrish* v. *California,* 66 Cal. 2nd 253 (1967) California's highest Court held that the right to privacy established by *Griswold* v. *Conn.,* 381 U. S. 479 (1965) protects the home and activities of welfare recipients. The Court held that a state welfare department cannot require, as a condition of continuing eligibility that mothers receiving

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of public assistance underscores the coercive nature of the demand for entry."

The result in *Parrish* and the argument for finding involuntariness in the present case are supported by the decisions of this Court in the area of coerced confessions. The promise of a benefit by the interrogator in exchange for the defendant's confession is enough to make the confession involuntary. In *Lynumn* v. *Illinois,* 372 U. S. 528 (1963), this Court held a confession involuntary where the police had threatened the defendant with loss of ADC aid for her and her children, if she refused to cooperate (372 U. S. at 534). In the instant case the basic elements are more direct and threatening. The alternatives are obedience or starvation. See Ten Broek and Wilson, *Public Assistance and Social Insurance—A Normative Evaluation,* 12 U. C. L. A. L. Rev. 237, 264-66 (1954). See also *Johnson* v. *U. S.,* 333 U. S. 510 (1948); *Pekar* v. *U. S.,* 315 F. 2d 319, 324-325 (5th Cir. 1963); *Canida* v. *U. S.,* 250 F. 2d 822 (5th Cir. 1958); *Judd* v. *U. S.,* 190 F. 2d 649, 651 (D. C. Cir. 1951). See also *Report of the National Advisory Commission on Civil Disorders,* Bantam Books, 1968, p. 460.

[50] The imposition of the burden of proof on the mother is especially unnecessary where a point of technical eligibility, not the family need, is the question. The mother initially seeks to establish her eligibility with the help of appellant. The burden of establishing her initial eligibility is slight (Manual I 7-8, L 10-12, II 25a, II 29, II 39-41). Once eligibility is established, the County Department periodically reviews continuing eligibility itself, but the burden never automatically reverts to the claimant to re-establish her eligibility.

benefits must allow welfare workers into their homes to search "for purposes of detecting the presence of 'unauthorized males,'" California's equivalent of substitute fathers. The Court stated "By their timing and scope those searches pose constitutional questions relating both to the Fourth Amendment's structures against unreasonable searches and seizures and to the penumbral right of privacy and repose recently vindicated by the United States Supreme Court in *Griswold* v. *Conn.*, 381 U. S. 479 (1965)." (at 258)[51]

The Alabama regulation has two aspects: first, the case worker attempts through her own investigation to determine if a prohibited relationship exists by questioning the mother freely; secondly, the mother, if she wishes to continue to get aid, is compelled to go out into the community and discuss her private life with her neighbors. Under the guise of defining "parent", Alabama's regulation intrudes into, inhibits and prohibits relationships between mothers receiving ADC and their male friends and associates. The regulation directs termination of aid whenever a local welfare official feels that a man whom the mother sees outside her home "appears" to be having a sexual relationship with her, and a man who frequently visits the mother's home "appears" to be visiting "for the purpose of" sexual intercourse with her (as if the man's purpose was consummation with the woman). Mrs. Smith was called before the caseworker to discuss the possible termination of her benefits because she was suspected of "going with" a man. "Going with" a man or allowing a man to come into the

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[51] See also the dissenting opinion of Judge Kaufman in *Snell* v. *Wyman*, C. A. 67-2676 S. D. N. Y. (Feb. 29, 1968) citing *Griswold*, and the welfare recipient's right to privacy.

home (even if only to see one of his children) are grounds for termination (A. 131).[52]

Since the regulation does not specify what evidence a local welfare official must have before determining that a man appears to be having or intending sexual intercourse with a particular mother receiving ADC, that mother's relationship with most any man whom she sees frequently—even a childhood friend, as in Appellee's case—can and most probably will be relied upon as a basis for terminating aid. To save the aid essential to her children's survival, the mother will have to persuade local welfare officials that each man she sees is not interested in her sexually.[53] If the official is not satisfied, the mother is required to open her relationships to neighbors, law enforcement officials, even "grocers", all of whom are free to spread her story throughout the community. The State is not satisfied merely with the affidavits of these other witnesses. After reviewing them the State goes out and cross-examines (with or without the mother's consent) the supporting witnesses to see "how they know that it is broken" (A. 155).[54] If the mother can eventually convince state or local welfare officials of the propriety of the details of the relationship she may well drive the man away.

In many states the giving of this information may lead to a determination of unsuitability and the mother may lose her child. We discuss in Point II, the very real danger

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[52] "the liberty . . . to direct the upbringing of children" *Pierce* v. *Society of Sisters*, 268 U. S. 510 applies to illegitimate as well as legitimate children.

[53] One of the witnesses testifies that a man's presence in the home is "prima facie" proof of a sexual relationship (A. 178).

[54] Unlike welfare department employees, such persons are not legally bound to maintain any confidences.

of criminal prosecution and the institution of proceedings to take the children from the mother (pp. 61-63 of Appellee's Brief). It is not surprising that many families when faced with the choice of recovery of aid only if they (a) completely divulge their private life, (b) terminate any relationship (sexual or otherwise) with any man, (c) expose themselves to harmful legal proceedings, may choose not to get involved with the welfare system.[55]

Alabama's regulation thus invades the constitutionality, protected privacy of the home and personal associations of mothers receiving ADC. *Griswold* v. *Conn.*, 381 U. S.

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[55] A study by the Florida Welfare Agency indicates that this course was chosen by 1,927 families, and that many others were apparently discouraged from applying for assistance after word spread among the poor of a new law similar to the one before this Court. In its report, the Department of Public Welfare noted that although the caseload increased by an average of 239 families monthly between May, 1958, and June, 1959 (when the new law went into effect), there was a decrease of 273 families monthly over the following fourteen months. Florida Department of Public Welware, Suitable Home (1962) pp. 25-26.

This consequence was unanticipated by those closest to the scene. The Florida Agency noted:

> "One of the surprising results of the law has been the large number of withdrawals from ADC. During the first year, there was a decrease of nearly 4,000 cases. . . . Sometimes the mother withdraws . . . when the worker explains the unsuitability requirement during the intake process. Many recipients have asked to have ADC discontinued rather than have the worker submit a Social Data Report. . . . Many mothers wait for the Team decisions and then withdraw if placement is recommended" (Bell, *op. cit.* 131).

Hence, a caseload that had been rising steadily before the law was enacted and reached a peak of 27,828 families in August, 1959, fell abruptly in twelve months to 23,871. This was not a regional trend nor is there any reason to conclude that it reflected improved economic circumstances for Florida's poor families. In looking more closely at some of the mothers in the group, the Department of Public Welfare noted that many feared permanent loss of their children and wished to "take no chances" (Bell, *op. cit.* 131, 132).

479 (1965). Under *Griswold*, the Federal Constitution protects against state action all activities and relationships lying "within the zone of privacy created by several fundamental constitutional guarantees."[56] Mr. Justice White pointed out, in reasoning applicable to this case, that the State may seek to restrict "illicit relationships", but in both cases there is no reason to believe that the statutory scheme is reasonably related to the state need.[57]

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[56] The concurring opinion of Mr. Justice Goldberg, joined in by Justices Brennan and Warren, referred (at 495) to the marital relation as "a particularly important and sensitive area of privacy," and referred to the existence of other areas of privacy, some perhaps equally as important and sensitive. The Opinion of the Court in *Griswold* relied especially on the Fourth and Fifth Amendments as interpreted in *Boyd* v. *U. S.*, 116 U. S. 616 (1885) to "apply to all invasions on the part of the government and its employees of the sanctity of a man's home and the privacies of life". The principal concurring opinion cited, as indicating the scope of the right to privacy, the declaration by Mr. Justice Brandeis, in *Olmstead* v. *U. S.*, 277 U. S. 438, 476 (1928) (dissenting opinion), that the Fourth and Fifth Amendments confer "the right to be let alone" from "every individual, whatever the means employed . . ." (quoted at 494). In *Camera* v. *Municipal Court*, 389 U. S. 12 (1967), Mr. Justice White, speaking for the Court, noted "When the right of privacy must reasonably yield to the right of search it is, as a rule, to be decided by a judicial officer, not by a policeman or government enforcement agency."

[57] Alabama's right to regulate non-marital relationships through general statutes, such as Code of Alabama, 14, §16 making it a crime for any man or woman to "live together in adultery or fornication", is not at issue here. The purpose which such laws may be necessary to achieve prevention of illegitimacy and enforcement of moral standards regarding sexual conduct cannot be invoked to justify Alabama's substitute father regulation. A state may not deny assistance to children living with their mother on the basis of an eligibility condition designed to discipline the mother and to control illegitimacy. Assuming that Alabama may punish unmarried persons upon proof in a court of law—in an adversary proceeding with all the procedural safeguards of due process—that those persons actually had sexual relations, the issue here is whether Alabama can for a very different purpose condition welfare eligibility on mere appearance of such relations.

(*footnote continues on following page*)

In fact the application of the substitute father regulation *increases* illegitimacy and illicit relationships.[58]

The right (or the duty) of the state to prohibit "immoral" conduct which damages no other ascertainable public interest has been the center of much discussion in recent years. The reporters of the Model Penal Code, sponsored by the American Law Institute, and those of The British Wolfenden Commission have recommended the legalization of all private non-violent consensual sexual conduct between adults. See Schwartz, *Moral Offences and the Model Penal Code,* Col. L. Rev. 669 (1963); Model Penal Code, Section 207.1, comment at 207 (Tent. draft 4, 1955); Dworkin, *Lord Devlin and the Enforcement of Morals,* 75 Yale L. Rev. 986 (1966); Note, *Private Consensual Adult Behavior: The Requirement of Harm to Others in the Enforcement of Morality,* 14 U. C. L. A. 581 (1967). The reporters of the Model Penal Code concluded that since laws enforcing purely moral or religious standards raised both constitutional and practical problems in a diverse society, they were "inappropriate for government." Model Penal Code, Section 207.1 comment at 207 (Tent. Draft No. 4, 1955). The Wolfenden Commission decided that the "realm of private morality (was) . . . not the law's business." Dworkin, *Lord Devlin and the Enforcement of Morals,* 75 Yale L. Rev. 986, 990 (1966). The logic and constitutional approach is as meaningful in the welfare area as in the criminal area.

The decision of these groups seems the only possible one in a free society. Otherwise virtually any statutory interference in the lives of citizens could be justified in terms of moral regulation. The basic decision of the American social and economic system, embodied in the Constitution, is that individual morality and thus social strength are maximized by the freedom of the individual to make his own decisions about his life, unless those decisions interfere with the right of others.

> "It . . . appears from the constitutional position of the state that harm must consist of more than the immorality of that act. Since the state is not a moralistic institution, but protects its citizens from unlawful interference with their rights and interests, government would transgress its power if it attempted to correct the internal faults of its subjects rather than limiting its goals to the prevention of injury to their lives, liberties, and property interests." Eser, *The Principle of Harm in the Concept of Crime: A Comparative Analysis of the Criminally Protected Legal Interests,* 4 Duquesne, U. L. Rev. 345, 366 (1966).

[58] There is, of course, no evidence to show that the denial of public aid serves as a rein upon maternal misbehavior or paternal

The majority opinion in *Griswold* also invoked its prior decisions under the First Amendment protecting "privacy in one's associations," expressly including "social" as well as political associations (at p. 483). See also *NAACP* v. *Alabama,* 357 U. S. 499 (1958); *Bates* v. *Little Rock,* 361 U. S. 516 (1960); *Gibson* v. *Florida Legislative Investigation Committee,* 372 U. S. 539 (1962).

The *Griswold* Court gave as an example of the danger of the law it struck down, the possibility of investigations of the most intimate detail of one's private life, a consequence far more likely to flow from Alabama's substitute-father regulation than from Connecticut's statute prohibiting birth control advice. See *Parrish* v. *California,* 66 Cal. 2d 253 (1967); Reich, *Midnight Welfare Searches and the Social Security Act,* 72 Yale L. J. 1347-1350 (1963). See also Ten Broek, *California's Dual System of Family*

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irresponsibility or that mothers who bore illegitimate children while receiving public aid either planned to become pregnant or wanted the child. The argument that cutting off families with illegitimate children will lower the illegitimacy rate is not supported by the facts. The Greenleigh Association Study of Cook County, indicated most mothers in a randomly selected sample of ADC families had not wanted their illegitimate babies, but that the reduction or termination of small money grants combined with loneliness and rejection served to increase their need for male companionship and any money or practical assistance their men friends could provide. In a randomly selected sample of 323 families in Mississippi who had been denied ADC aid between June 1954 and June 1956, the incidence of illegitimacy soared *after* the families were rejected by the program. 41% of the children born to sample families during 1954 and 1956 were illegitimate. They were again interviewed in 1957, after they had their aid terminated and it was found that 91.4% of the children born in the intervening years to the 323 families were illegitimate. Bell, *Aid to Dependent Children,* Columbia University Press (1965), pp. 69, 101.

The report of the *National Advisory Commission on Civil Disorders* states that the substitute father rules have "fostered the break up of homes." Bantam Books, 1968, p. 459.

Law; Its Origins, Development and Present Status, 17 Stan. L. Rev. 614, 670 (1965).

The freedom to marry is meaningful only so long as there is a freedom to begin relationships that may lead to marriage. This the Alabama regulation hinders.[59] In *Loving* v. *Virginia,* 388 U. S. 1 (1967), this Court stated:

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[59] Privacy in intimate relationships is of course, basic to the individual's personal dignity and worth.

"... privacy is not just one possible means among others to insure some other value, but ... it is necessarily related to ends and relations of the most fundamental sort: respect, love, friendship and trust. Privacy is not merely a good technique for furthering these fundamental relations; rather without privacy or the possibility of privacy they simply are inconceivable. A threat to privacy seems to threaten our very integrity as persons. To respect, love, trust, feel affection for others and to regard ourselves as the objects of love, trust and affection is at the very heart of our notion of ourselves as persons among persons." Fried, "Privacy," 77 Yale L. J. 475, 490-492 (1968).

The freedom to determine the extent to which others may share in one's spiritual nature and the ability to protect one's beliefs, thoughts, emotions, and sensations from unreasonable intrusions are the very essence of life in a free society." Beaney, *The Griswold Case and the Expanding Right to Privacy,* Wis. L. Rev. 979, 995 (1966). See also, Emerson, *Nine Justices in Search of a Doctrine,* 64 Mich. L. Rev. 219, 229 (1965).

This regulation, like the methods used to invade privacy described in the Fried article, *supra,* "obviously presents vast opportunities for malice and misunderstanding on the part of authorized personnel. For that reason the subject has reason to be constantly apprehensive and inhibited in what he does. There is always an unseen audience. But even assuming the benevolence and understanding of the official audience, there are serious consequences to the fact that no degree of true intimacy is possible for the subject. Privacy is not, as we have seen, just a defensible right. It rather forms the necessary context for the intimate relations of love and friendship which give our lives much of whatever affirmative value they have. Yet where any intimate revelation may be heard by officials, it loses the quality of exclusive intimacy required of a gesture of love or friendship."

The regulation, "alters only in a subtle and unobtrusive way—though a significant one—the context for relations. The subject

"These statutes also deprive the Lovings of liberty without due process of law in violation of the Due Process Clause of the Fourteenth Amendment. The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men."

Appellants argue that Appellee and members of her class waive their right of privacy as a condition of their getting government benefits. A regulation which conditions eligibility for a publicly-conferred benefit on waiver of a constitutional right cannot be justified simply on the ground that it is related to the purposes of the benefit program. Two other tests must be met. First, there must be a showing of a compelling interest. "Only the gravest abuses endangering a paramount interest, give occasion for permissible limitation." *Thomas* v. *Collins*, 323 U. S. 516, 530. Second, there must be available no alternative means which can achieve the compelling purpose in a manner less subversive of the constitutional right. A "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area

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appears free to perform the same actions as others and to enter the same relations, but in fact an important element of autonomy, of control over one's environment is missing: he cannot be private. A prisoner can adopt a stance of withdrawal, of hibernation as it were, and thus preserve his sense of privacy intact to a degree. Finally, the insidiousness of a technique which forces a man to betray himself in this humiliating way or else seem inhuman is compounded when one considers that the subject is also forced to betray others who may become intimate with him. Even persons in the overt oppressiveness of a prison do not labor under the burden of this double betrayal." Fried, "Privacy", 77 Yale L. J., 475, pp. 490-492 (1968).

of protected freedoms." *Griswold* v. *Conn.*, 381 U. S. 479 (1965).

Alabama's substitute father regulation meets neither test. The regulation is far from necessary to achieve its purported purpose of denying assistance to needy children deprived of the support and care of their legal father, but blessed with another man who acts as if he were their father. Even if this were a legitimate purpose (despite the fact that the man is not legally obligated to support the children or their mother), Alabama's substitute father regulation is an irrational method for achieving that purpose. Although ADC laws require a "parent," not a "husband," the substitute father regulation looks only to a man's apparent relationship with a child's mother. A man can be a parent to children, regularly caring for them and supporting them to the best of his ability, without ever having sexual intercourse with their mother. Conversely, a man can regularly engage in sexual activity with a woman and never even meet her children, let alone act or be obligated to act as their father. Inquiry into support and care need not involve the removal of dignity and privacy necessarily effected by Alabama's search for sex.[60]

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[60] Not only is Alabama's regulation unnecessary to the achievement of the purposes of ADC, it directly contradicts these purposes, by invading the recipient's privacy. The United States Department of Health, Education and Welfare Transmittal 77 amending its Handbook of Public Assistance states:

> 2220. Requirements for State Plans. Effective July 1, 1967, a *State plan* under Titles I, IV, X, XIV and XVI *must:*
>
> 1. *Include policies and procedures for determination of eligibility* for assistance or other services that are consistent with the objectives of the program, and that respect the rights of individuals under the United States Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964 (see Supplement C), and all other relevant provisions of Federal and State laws, and *that will not result in practises that violate*

Appellants argue that those on welfare have less rights than those not on welfare. There are presently over 10 million Americans receiving aid and the argument that these people have less constitutional rights than the rest of our citizens is inconsistent with our concepts of equality. There cannot be one law for the poor and one for the rich; there cannot be one standard of privacy for these ten million and another for the remainder of the country. See *Shelton* v. *Tucker,* 364 U. S. 479 (1960).

POINT IV

Appellee's action is brought under the Civil Rights Act and her failure to do a useless act (exhaust inadequate state administrative remedies) is not grounds for dismissal.

In *Damico* v. *California,* 389 U. S. 416 (1967), this Court held that relief sought under 42 U. S. C. 1983, 28 U. S. C. 1343 could not be defeated because of failure to exhaust state administrative remedies. Plaintiffs in *Damico* alleged that certain provisions of the California Aid to Dependent Children's Programs were unconstitutional. A Three-Judge Federal Court dismissed their complaint on

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the individual's privacy or personal dignity, or harass him, or violate his personal constitutional rights. (Emphasis added.)

The purposes of the Act, that of guaranteeing the right of all eligible persons to financial assistance when in need and helping such persons become self-supporting and independent, is frustrated and destroyed by conditions on eligibility which harass and humiliate recipients, and force them to choose between assistance and privacy in their homes and free association outside of their homes.

exhaustion grounds. The Supreme Court in a *per curiam* decision signed by eight members of the Court, reversed the dismissal, citing *McNeese* v. *Board of Education,* 373 U. S. 668 and *Monroe* v. *Pape,* 365 U. S. 167, and directed the Court to hear the case on the merits.

Mr. Justice Harlan dissented because of the existence of a state remedy that had not been shown to be inadequate and said the majority decision "made without benefit of briefs and oral argument and on a skimpy record" does not rest upon facts which justify the use of 42 U. S. C. 1983 to bypass 42 U. S. C. 602.

We believe this case sets forth those facts which justify the involvement of the Federal Courts prior to the exhaustion of inadequate state remedies. We are of course dealing with federally protected rights and allege, among other things, that the regulation discriminates racially. Preliminarily we note that Appellees and the members of her class are not advised of their right to appeal (A. 16). The Alabama administrative remedy, the alleged fair hearing and the right of appeal have previously been discussed (pp. 47-53 of this Brief). The right to Welfare appeals are not adequate[61] remedy. The Federal Courts must

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[61] Recipients rarely take appeals because they do not know of their right to have one and, even if they did know, they are so intimidated by the system, that they would not take the appeal.

A recent study found that while 141,286 Texas recipients in 1968 were given adverse determinations only 693 (0.49%) filed appeals. This compares to a 8.7% appeal rate from federal courts in Texas to Court of Appeals during the same period. Furthermore, while only 21.7% of the appeals to the County were reversed or denied, 55% were similarly disposed of by the Welfare Appeals Board. Bell and Norwell, Texas Welfare Appeals: The Hidden Right, 46 Tex. L. R. 223, 224 (1967). The percentage of appeals in Alabama appears to be far below that of Texas (R. 83) and we estimate it at less than one-tenth of one percent: Appellants had five

make themselves available for cases challenging the administration of welfare law. *Federal Judicial Review of State Welfare Practices*, 67 Col. L. Rev. 84 (1967). The regu-

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appeals in 3½ years when there were at least 5000 terminations (A. 83). A California study indicated 60% of the recipients do not know they have a right to appeal. Briar, Welfare From Below: Recipients' View of the Public Welfare System, 54 Calif. 370, 377 (1966). The article contains recipents' responses to a question asking to whom a recipient should appeal if he disagrees with a decision made about his case by the Welfare Department. Nearly one-third of the recipients indicated they did not know where to appeal and the remainder lacked a consistent conception about where to initiate an appeal. The New York experience is similar. The Moreland Commission *Report on Public Welfare in the State of New York* (1963) at p. 27.

Judge Skelly Wright's observation in *Hobsen* v. *Hansen*, 269 F. Supp. 401 (D. C. 1967) calling for greater involvement of the Federal Courts in cases dealing with the poor and other politically impotent minorities is pertinent:

> "This need for careful scrutiny is strengthened when the practice, though not explicitly singling out for special treatment any of the groups for which the Constitution has a special solicitude, operates in such a way that one such group is harshly and disproportionately disadvantaged. See *Griffin* v. *Illinois*, 351 U. S. 12 (1956) and its progeny . . . See also *Harper* v. *Virginia Board of Elections*, 383 U. S. 663 (1966) . . .
>
> "The explanation for this additional scrutiny of practices which, although not directly discriminatory, nevertheless fall harshly on such groups relates to the judicial attitude toward legislative and administrative judgments. Judicial deference to these judgments is predicated in the confidence courts have that they are just resolutions of conflicting interests. This confidence is often misplaced when the vital interests of the poor and of racial minorities are involved. For these groups are not always assured of a full and fair hearing through the ordinary political processes, not so much because of the abiding danger that the power structure . . . may incline to pay little heed to even the deserving interests of a politically voiceless and invisible minority. These considerations impel a closer judicial surveillance and review of administrative judgments adversely affecting racial minorities and the poor, than would otherwise be necessary."

See also *United States* v. *Caroline Products Co.*, 307 U. S. 144, 152 n.4 (1938), in which this Court recognized that "prejudice

lations presently coming under Court challenge in this and other cases have existed for decades. Welfare clients do not have lawyers and they, without lawyers, are unable to confront the system. (Briar, *Welfare from Below: Recipients' Views of the Public Welfare System,* 54 Calif. L. Rev. 370 (1966). See also *Parrish v. California,* 66 Cal. 2d 253, 262 (1967). As a result until very recently, there was little litigation involving welfare issues. There will never be nearly enough lawyers or lay advocates to represent that portion of the ten million who each year have their aid terminated or reduced." Note, *Withdrawal of Public Welfare: The Right to a Prior Hearing,* 76 Yale L. J. 1234 (1967). Forcing these lawyers through state remedies when they are attacking regulations promulgated by the states is a wasteful, destructive act. See *Wills* v. *U. S.,* October Term, 1967, No. 756, petition for cert. filed October 25, 1967.[62] The only reason that

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against discrete and insular minorities may be a special condition which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which calls for a correspondingly more searching judicial inquiry."

[62] The record and the facts in this case and the previous attempts to utilize 42 U. S. C. 404 to enjoin the substitute father regulation answers questions about other remedies provided by the Social Security Act itself. Section 404 allows a litigant to file a complaint with HEW in an attempt to change a particular regulation. A complaint attacking substitute father regulations was filed two years ago and nothing has been done about it. Connor, The Man in the House Rule, 2 Harv. Civil Rights, Civil Liberties L. Rev. 299 (1967). It is unrealistic to expect HEW to take any action that would reduce limitations on eligibility and thereby increase the welfare caseload and welfare costs. The history of the pressures placed by Congress on HEW, the entire history of the substitute father and suitable home policies and the negotiants between HEW and the states indicate that constitutional infirmities will be struck down only if the judiciary does it.

The Government's involvement in this case is indicative of their attitude. The only reason the Government entered the case was be-

there has been any change in "welfare" law is because the Federal Courts, in a variety of cases, have taken jurisdiction of welfare cases.[63]

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cause Judge Johnson ordered it (R. 20). They were joined as "amicus and as a party" and were required to participate. They did not. They never filed any pleadings, did not give an amicus brief to the court below (they furnished the Court with a two page letter explaining their position (p. 111 of Appellants' Brief)) and refused to participate (until requested to do so by Mr. Justice Blaek) in the various stay applications before the Court. They originally refused to submit to discovery proceedings. Appellant King was in a large part right in stating:

> "Well, to be honest and frank about it, Mr. Garbus (Attorney for Appellee), the Federal Government has never liked the policy; but they have never had enough guts, and I say this for the record—the Federal Government has never had enough guts themselves to define what a substitute part policy would be. They were about ready to until Senator Byrd's investigation of the ADC problems in Washington, D. C. and after that they have been afraid to . . ."

Mr. Justice Harlan's observation that the Federal Government "closely supervises" the program and that there is a "highly successful federal-state working relationship created by Congress in this area" is in large part correct. It does not always apply where unconstitutional practises allegedly save the Federal and State governments monies. HEW does not really know how the states administer many aspects of the politically sensitive ADC programs. See Steiner, *Social Insecurity, The Politics of Welfare,* Rand McNally (1966), p. 80.

[63] See for example *Williams* v. *Gandy,* C. A. 728 N. D. Miss. (1967); *Wheller* v. *Montgomery,* C. A. No. 48303 N. D. Calif. (1967); *Lage* v. *Dowing,* Civil Action, No. 7-2089 S. D. Iowa, Nov. 21, 1967; *Mantell* v. *Dandridge,* No. 18792 D. Md. Dec. 4, 1967; *Johnson* v. *Robinson,* C. A. 67-C-1883 N. D. Ill. Dec. 28, 1967; *Rios* v. *Hackney,* C. A. 3-1852 N. D. Texas, Dallas Div. Nov. 30, 1967; *Harrel* v. *Tobriner,* C. A. No. 1497-67 (D. C. Sept. 11, 1967); *Smith* v. *Reynolds,* C. A. No. 42419 W. C. Ed. Penna. June 1, 1967; *Ramas* v. *Health and Social Service Board,* C. A. No. 67-c-329 E. D. Wisc. Nov. 7, 1967; *Denny* v. *Health and Social Service Board,* Civil Action No. 67-c-426 E. D. Wisc. Dec. 22, 1967; *Snell* v. *Wyman,* C. A. 67-2676, S. D. N. Y. Feb. 29, 1968; *Ponter* v. *Graham,* C. A. 2348 Tucson, Ariz., Jan. 24, 1968; *Thompson* v. *Shapiro,* October Term, 1967, No. 813. See New York Times, Nov. 26, 1967, "Welfare in Court," "The News of the Week in Review," p. 8.

CONCLUSION

The judgment below should be affirmed.

Respectfully submitted,

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* The attorney for Appellees gratefully acknowledges the assistance of Ronald Pollack, a third year student at New York University, Ruth Garbus, Steven Wizner, the Law Student Civil Rights Research Council, the Columbia University Center on Social Welfare Policy and Law and the New York University Project on Social Welfare Law.

APPENDIX

Table 1

Substitute Father Eligibility Rules*

I. The Regulation Is Applied When There Are Frequent Visits to the Home or Meetings Outside the Home (but There's No Presence in Home). The Question of Support Is Not Relevant to the Regulation's Application**

(1) *Alabama*—Public Assistance Manual, Part I, Chapter II, Subd. V(A)

(2) *Arkansas*—Department of Public Welfare Manual, Sec. 2813 (R 483)

(3) *Georgia*—Manual of Public Assistance Administration, Part III, Sec. V, pp. 6-7 (R 492)

(4) *Louisiana*—Manual of Policies and Procedures—Department of Welfare, Sec. 2-740, 2-741, 2-742, 2-742.1, & 2-742.2.

(5) *Michigan*—Manual of Policies and Procedures, Part B, Item 259(2)

(6) *North Carolina*—Public Assistance Manual of Policies and Procedures for Administration, Sec. 440, p. 4.

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* Citations are given whenever possible. Where no citation is set forth (Idaho), the facts were given by the Director of the State Welfare Agency. There are 19 states where the substitute father regulations are qualifications on eligibility and an additional 17 states (including Puerto Rico) where the regulation's presence is used to reduce benefits.

** Each of the states set forth in the first category are included in the second category and each of the states set forth in the first two categories are included in the third.

II. The Regulation Is Applied When There Are Frequent Visits to the Home and/or Meetings Outside of the Home

(1) *District of Columbia*—Handbook of Public Assistance Policies and Procedures, EL 4, 5 IV C, D, & E (R 485)

(2) *Mississippi*—Manual of Policies and Procedures for Administration of Public Assistance, Sec. D, pp. 4512-4513 and Bulletin No. 1150 (R 494)

(3) *Oklahoma*—Department of Public Welfare Manual of Policy and Procedures, Sec. 336

(4) *Texas*—Department of Public Welfare Manual of Services, Secs. 2640 & 2642.60

III. Presence in the Home Is Sufficient for the Application of the Regulation—The Question of Support Is Not Relevant to the Regulation's Application

(1) *Arizona*—Family Services Manual, Sec. 3-403.6D (5a)

(2) *Idaho*—No citations, but is true according to the letter of Howard H. Smith, Director of Social Services

(3) *Indiana*—Public Assistance Manual, III-C-15

(4) *Kentucky*—Public Assistance Manual of Operation, Sec. 2214 G

(5) *New Hampshire*—Manual of Policies and Public Assistance Revised, pp. 47-48

(6) *New Mexico*—Department of Public Welfare Manual, Sec. 221.722

(7) *South Carolina*—Manual of Policies and Procedures in Public Assistance, Volume IV, pp. 44-45

(8) *Utah*—Manual of Public Assistance Policies, Secs. 4431.72 & 4431.8

(9) *Virginia*—Manual of Procedure, Vol. II, Section 203.106.14 (6a)

Table 2

THE "SUBSTITUTE FATHER" RULE IN THE UNITED STATES*

SITUATION	A Family is ineligible	B Family eligible, but grant is less than it would be if this relationship did not exist	C Family is eligible and the grant is not affected
1. in home; father-role	Ala.; Ariz.; Ark.; D.C.; Ga.; Idaho; Ind.; Ky.; La.; Mich.; Miss.; N.H.; N.M.; N.C.; Okla.; Tex.; Utah; Va.	Calif.; Del.; Haw.; Ill.; Me.; Nev.; N.J.; N.Y.; N.D.; Ohio; Pa.; P.R.; S.D.; Wash.	Alas.; Colo.; Fla.; Iowa.; Kans.; Md.; Mass.; Mont.; Neb.; Ore.; R.I.; Vt.; W. Va.; Wisc.; Wyo.
2. in home; no father-role	Ala.; Ariz.; Ark.; D.C.; Ga.; Idaho; Ind.; Ky.; La.; Mich.; Miss.; N.H.; N.M.; N.C.; Okla.; Tex.; Utah; Va.	Calif.; Del.; Haw.; Ill.; Me.; Nev.; N.J.; N.Y.; N.D.; Ohio; Pa.; P.R.; S.D.; Wash.	Alas.; Colo.; Fla.; Iowa; Kans.; Md.; Mass.; Mont.; Neb.; Ore.; R.I.; Vt.; W.Va.; Wisc.; Wyo.
3. frequent visits; father-role	Ala.; Ark.; D.C.; Ga.; La.; Mich.; Miss.; N.C.; Okla.; Tex.	Me.	Alas.; Ariz.; Calif.; Colo.; Del.; Fla.; Haw.; Idaho; Ill.; Ind.; Iowa; Kans.; Ky.; Md.; Mass.; Mont.; Neb.; Nev.; N.H.; N.J.; N.M.; N.Y.; N.D.; Ohio; Ore.; Pa.; P.R.; R.I.; S.D.; Utah; Va.; Vt.; Wash.; W. Va.; Wisc.; Wyo.
4. frequent visits; no father-role	Ala.; Ark.; Ga.; La.; Mich.; N.C.	Tex.	Alas.; Ariz.; Calif.; Colo.; Del.; D.C.; Fla.; Haw.; Idaho; Ill.; Ind.; Iowa; Kans.; Ky.; Me.; Md.; Mass.; Miss.; Mont.; Neb.; Nev.; N.H.; N.J.; N.M.

(table continued on next page)

Situation	A	B	C
			N.Y.; N.D.; Ohio; Okla.; Ore.; Pa.; P.R.; R.I.; S.D.; Utah; Va.; Vt.; Wash.; W. Va.; Wisc.; Wyo.
5. out of home; father-role	Ala.; Ark.; D.C.; La.; Mich.; Miss.; N.C.; Okla.	Me.	Alas.; Ariz.; Calif.; Colo.; Del.; Fla.; Ga.; Haw.; Idaho; Ill.; Ind.; Iowa; Kans.; Ky.; Md.; Mass.; Mont.; Neb.; Nev.; N.H.; N.J.; N.M.; N.Y.; N.D.; Ohio; Ore.; Pa.; P.R.; R.I.; S.D.; Utah; Vt.; Va.; W. Va.; Wash.; Wisc.; Wyo.
6. out of home; no father-role	Ala.; Ark.; La.; Mich.; N.C.	Tex.	Alas.; Ariz.; Calif.; Colo.; Del.; D.C.; Fla.; Ga.; Haw.; Idaho; Ill.; Ind.; Iowa; Kans.; Ky.; Me.; Md.; Mass.; Miss.; Mont.; Neb.; Nev.; N.H.; N.J.; N.M.; N.Y.; N.D.; Ohio; Okla.; Ore.; Pa.; P.R.; R.I.; S.D.; Utah; Va.; Vt. Wash.; W. Va.; Wisc.; Wyo.

* This table's function is to furnish a general overview of the substitute father and man in the house rules existing in this country. It is not based entirely on original material because we could not obtain the regulations (and administrative interpretation of them) from some States. Much of the information was furnished by the State agencies. Missouri and Tennessee are the only states for which we did not have sufficient information to list in the table. The placing of regulations in the arbitrary categories set forth on the left hand side are based upon our interpretation of the regulations. HEW can of course furnish the Court with the Regulations themselves. We refer to the Appendix being submitted by the NAACP Legal Defense Fund for a fuller treatment of the regulations existing in the other States. A portion of that fuller treatment had been included in this brief but we felt it more appropriate that it appear in the amicus brief.

ARIZONA

Whenever an adult male is found to be living in an ADC household and acting as head of the household, the eligibility of which depends upon the father being absent from the household, the ADC grant will be immediately suspended. The grant will not be reinstated until the "deprivation of parental support" as an eligibility factor is again established and verified.

When the caseworker establishes the presence of an adult male in the home of an ADC applicant or recipient and as the result rejects the application or discontinues an active case, and the person whose application was rejected or grant discontinued makes a new application or requests reinstatement, on the basis the unrelated adult male is no longer in the home, the new investigation of deprivation of parental support must determine without doubt the man in question has removed himself completely from the household. It is suggested that such cases be referred to the Special Services Unit for investigation.

(AID FOR DEPENDENT CHILDREN, FS Transmittal #104, 3-403.6D.)

VIRGINIA

When a man or woman continues to live in the home under circumstances that indicate that he or she maintains an extramarital relationship with a child's parent, the couple shall be deemed to have established a household accepting parental responsibilities, including financial support for all of the children. It is not necessary to make a detailed enumeration of requirements and resources as is required when a man and woman maintain an extramarital relationship and there are no dependent children of either living in the home.

(Manual of Procedure, Section 203.14. See also Bell, *op. cit.* pp. 105-110, discussing the suitable home policies of Virginia, Arkansas and Texas.)

APR 18 1968

JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967.

No. 949.

RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County, Department of Pensions and Security, Individually and in Their Official Capacities,

Appellants,

v.

MRS. SYLVESTER SMITH, Individually, and on Behalf of Her Minor Children, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH and WILLIE JAMES SMITH and on Behalf of All Other Mothers of Needy, Dependent Children Similarly Situated,

Appellees.

On Appeal from the United States District Court for the Middle District of Alabama, Northern Division

REPLY BRIEF FOR APPELLANTS.

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Appellees.

On Appeal from the United States District Court for the Middle District of Alabama, Northern Division

REPLY BRIEF FOR APPELLANTS.

THE CENTRAL ISSUE—REASONABLENESS OF CLASSIFICATION

Appellees' Brief, as well as briefs of *amici curiae*, go into many questions which Appellants believe are not directly involved in the case before this Court. For this reason Appellants wish to state as succinctly as possible their position on the central issues.

In Alabama an otherwise needy dependent child is ineligible for public assistance if there are two able-bodied parents in the home. In a situation where parents are legally married, the father may not (1) give economic support or (2) give love and affection; in a situation where a husband is the stepfather of the children he may not owe a legal duty of support to the children; yet in all of these situations the children are not eligible for ADC and this conforms with state and federal requirements. Obviously this requirement exists because it is believed that the taxpayer, and the state and federal governments representing the taxpayer, do not wish to encourage dependency, unemployment, or any effort to escape work on the part of parents by permitting them to rely on a regular monthly grant for the child from the government rather than seeking to support them by working. Undoubtedly there are instances of hardship in situations where persons are married to each other, and it is clear that the Alabama public assistance categories only purport to help those persons who fit within these regulations which carve out those general groups of persons the State elects to assist within the framework of the Social Security Act and applicable federal regulations. "Needy" in every State in the Union is always subject to particular definitions at particular times depending upon available federal money, state money and the laws or regulations developed by Congress, HEW, the State legislature or State Welfare Boards defining the "most needy."

The Alabama regulation contains no definition which restricts aid based on the legal status of any child. It merely purports to define for the purposes of receipt of public assistance ways to identify a substitute parent. The study in Exhibit 24 (A. 587) also shows that these relationships, though not ideal, in many instances do provide children with

some supportive help emotionally and financially. In marginal income groups or groups who would be eligible for Aid to Dependent Children there would no doubt be a bitter resistance to the matter of being ineligible merely because persons in the home were married when other persons similarly situated would be able to receive public assistance solely because they were unmarried. Undoubtedly the public senses this inequity also. Accordingly, Alabama has attempted to arrive at a rule which sets out to identify for purposes of public assistance the "thereness" of able-bodied parents.

The discussion in Brief for Appellees about the right of privacy and burden of proof misses the point of this type of policy. In the clearly defined instances in which the burden does shift to the client or recipient to show that a particular relationship involving cohabitation has ceased, the State does not have to pay employees to snoop around in persons' homes to determine the nature of any particular relationship. This policy when viewed in its broader sense is the direct opposite of the type of policy which places the burden on the State to snoop into the private lives of the indigent to determine the applicability of the policy. There has already been enough research, statistics and other available information to show that these types of relationships exist and that many, many children are born out of wedlock in situations which hardly lend themselves to breaking the cycle of poverty. Alabama in this policy is frankly acknowledging that it has not since 1935 as a State succeeded in breaking this cycle in these situations, and instead of putting more responsibility on state and public agencies for assuming the responsibility in ending these, is attempting to shift the burden to the individuals. Where the individuals wish to comply with the State requirements they are free to do so, and by agency policy, the caseworkers are

required to help them prove that they have done so. Where a report to the agency tells of such relationship, the worker calls a client in to discuss this matter. This must be checked out just as the worker must check out reports of available income and resources.

Appellants contend that the state could view this situation in entirely different ways and still fall within the legal purview of the Social Security Act, the United States Constitution, and applicable laws of Alabama. Since May 1961 HEW has had regulations which now permit Aid to Families with Dependent Children grants with federal matching money to be made to families in which there are two able-bodied parents if these parents are unemployed. The test of eligibility can therefore be made without regard to identifying the "thereness" of two parents in states where a large amount of money is put into AFDC. For states which want the State agency to undertake more responsibility in this field and include more persons on AFDC rolls, this method offers a broader opportunity for choosing a classification which places fewer restrictions on those families eligible for aid.

But for states who wish to limit the AFDC program and who, like Alabama, prefer a limited program in which more adequate grants are given to fewer families, the rule in question does show a reasonable classification and is valid on its face. Appellees have not proved that it is invalid by virtue of application. Whereas some states may view these situations as calling for more financial help to needy families, Alabama has decided to expect more responsibility from persons who wish the State to help them.

The factual situation presented obviously fits in with the judicial decisions construing the Equal Protection Clause of

the Fourteenth Amendment. Reviewing Courts need not agree that the regulation is the most appropriate one to achieve the valid economic purposes sought to be achieved. Instead, according to traditional administrative law doctrine, the reviewing court defers to the judgment of the administrative agency on the wisdom of the regulation, since this regulation is an exercise of the power conferred on the agency by the Legislature. See 1 Davis, *Administrative Law*, page 299 (1958); and *American Telephone & Telegraph Co.* v. *United States*, 299 U.S. 232, 236-237 (1936). This is not to ignore or belittle the role of the reviewing court as a safeguard against arbitrary or capricious administrative action, and that determination depends on the court's judgment as to whether the regulation is consistent with the purposes of the statutory grant of power.

The substitute parent regulation is a reasonable limitation on the class of dependent children eligible for AFDC assistance. Neither the Social Security Act nor the Constitution requires Alabama to maintain an ADC program. The courts have quite generally held that recipients or applicants under public assistance acts have no inherent or vested right in the public assistance they are receiving or desire to receive, and that the matter of extending, expanding, curtailing or withdrawing public assistance is one of public policy only. E.g. *Ellis* v. *State Department of Public Health and Welfare*, 365 Mo. 614, 285 S.W.2d 634, 638 (1956). Generally speaking, a state can grant welfare benefits upon such reservations and conditions as it may deem proper. E.g. 81 C.J.S. *Social Security and Public Welfare*, §17, p. 42. The sole limitation upon the state's power to expand or contract (as it did here by the substitute parent regulation) the class eligible for public assistance benefits is the fact that the delineation be-

tween persons included and excluded from the class must have some reasonable basis in view of the over-all purpose of the regulation. We agree with Appellees that Alabama cannot pick and choose persons it will aid in a whimsical or capricious manner. We submit, however, that it has not done so. Quite obviously the amount of money available is a proper and necessary consideration in formulating public assistance programs such as AFDC (see 16A C.J.S. *Constitutional Law*, §490, p. 252) and economic resources available to persons applying for or receiving public assistance is a proper and necessary consideration in determining eligibility for public assistance. It is necessary for an administrative agency to address itself "to the one phase of the problem which seems most acute" and apply a remedy to this phase even though necessarily omitting the others. Appellants contend that this is not unconstitutional. See *McGowan* v. *Maryland*, 366 U.S. 420, 425-26 (1961).

Perfect symmetry of classification is not required and indeed is rarely, if ever, attainable, 16 Am. Jur.2d *Constitutional Law*, §504. It does not have to be the wisest classification which the legislature or administrative agency could have chosen. All that is required is that it have some reasonable basis and be reasonably related to the attainment of the general statutory objective. The policy under consideration is not the invidious discrimination which *McGowan* v. *Maryland*, supra, says is required to show an Equal Protection violation. The mere fact that the application of a regulatory or statutory classification in practice and in fact results in inequality to particular individuals within the class poses no constitutional problem. *Martin* v. *Walton*, 368 U.S. 25, 26 (1961); *Morey* v. *Doud*, 354 U.S. 457, 463 (1957); *Phelps* v. *Board of Education of West New York*, 300 U.S. 319, 324 (1937); *Missouri, Kansas and Texas Ry. Co.* v. *Cade*, 233 U.S.

642 (1913); *Lakeshore and M.S.R. Co.* v. *Clough*, 242 U.S. 375 (1916); *New York Central R. Co.* v. *White*, 243 U.S. 188 (1916); *International Harvester Co.* v. *Missouri*, 234 U.S. 199 (1913); *Ozan Lumber Co.* v. *Union County Nat. Bank*, 207 U.S. 251, 52 L.Ed. 195, 28 S. Ct. Rep. 89.

The substitute parent regulation was not plucked out of the air in an arbitrary, whimsical manner. As we have shown, it was a reasonable means which the Department of Pensions and Security selected to narrow the class eligible for AFDC benefits and thus avoid the hardship which would have been caused to a far greater number of recipients by a reduction of the maximum amount of benefits allowable. The mere fact that some different classification *could*, or even as Appellees contend *should* have been made, is not a matter which addresses itself to the courts. E.g. *Clark* v. *Paul Grey, Inc.*, 306 U.S. 583, 594 (1939); 16 C.J.S. *Constitutional Law* §151 (4), p. 767. Appellees' contention that the regulation is unconstitutonal in application is devoid of merit.

CORRECTIONS OR CLARIFICATIONS OF OPPOSING BRIEFS

Most of the assertions made by Appellees relating to the findings by caseworkers and county departments confuse the fact finding methods of administrative agencies with the type of evidence required in a judicial proceeding. There would be no point in having administrative agencies if all their actions required court standards to operate. One of the distinctions in the three branches of government is the unique method each has to accomplish its specific tasks.

The Alabama agency does disagree with Appellees' Statement of the Facts on page 11. Appellees assert that the Plaintiff understood that a third party had told the Depart-

ment that she was "going with" Mr. Williams and unless Mrs. Smith could prove otherwise, Mr. Williams was to be considered a "substitute father." The Alabama agency's version of the situation is that aid was terminated because of the Plaintiff's statement that she was cohabiting regularly with Mr. Williams and that she did not choose the alternate methods available to stop termination of the grant. We consider this point significant because the method involved in this whole process depends upon the client being the primary source of information. The Alabama agency does not employ the techniques of midnight raids. If the practice of actually believing what people say cannot be relied upon in the matter of establishing public assistance eligibility, if distrust of the system goes this far, then any text writer by assuming that caseworkers are basically dishonest and untrustworthy individuals can create assumptions which not only have no basis in fact but which arrive at conclusions without responsible research to back it up. There would be no way to operate a public assistance program if clients and workers cannot be assumed to be basically honest and truthful. In one of the *amici* briefs and in Appellees' brief the suggestion is made that the wording of the regulation gives the caseworker the unbridled right to formulate a conclusion and terminate aid if an ADC mother establishes an open friendship with a male. Obviously, an open friendship with a man is not a test in Alabama, nor does gossip give any more leeway to a caseworker to terminate a grant under the substitute parent regulation than in a situation where large sums of money are said to have been stashed away by a public assistance recipient. On pages 49 and 51 of the Brief of Appellees a suggestion is made that the Alabama agency has not promulgated new appeal provisions. This is untrue and further revisions will be made by July 1st as required by

HEW. We specifically deny the statement appearing on page 77 that Appellee and members of her class are not advised of their right to appeal. Mrs. Smith's caseworker testified that she did advise her of her right of appeal (A. 145).

Appellees and *amici* by the simple expedient of attaching the label of sexual behavior[1] to all of the aspects of the Alabama agency's regulation have sought to dispose of the serious question Appellants are asking this Court to resolve. The Department of Health, Education, and Welfare, the agency primarily responsible for interpreting the provisions of the Social Security Act, has permitted states to effectuate classifications based on informal living arrangements in AFDC families. In order to take advantage of the grant-in-aid programs and in order to permit states to offer limited programs—perhaps instead of none at all—the Department of Health, Education, and Welfare has given broad interpretation to the language of the Social Security Act which provides (42 U.S.C.A., §601) in part as follows:

> "For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, *as far as practicable under the conditions in such State,* to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family

[1] In an age in which many persons apparently seek meaning out of life by and through physical sensations is it unwise to consider that when these physical sensations occur between men and women, conception is also apt to occur. Birth control as a measure of limiting the number of births of persons born out of wedlock may be helpful in reducing the number of births, but it cannot be forced upon persons. Irresponsible procreation is considered by some to be the number one problem of the century.

life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter." (Emphasis supplied)

None of the Briefs submitted have answered the question: why the Secretary of Health, Education, and Welfare cannot permit states to limit their programs in accordance with the language of the Social Security Act. The Alabama agency submits that this must be a very liberal interpretation because it is dependent upon another branch of government appropriating funds to enter into what might be called a joint partnership designed to offer some help and services to the needy.[2] The Brief for Appellee alludes to the recent dispute of the Alabama agency with HEW in which the Alabama agency pointed out[3] the difficulties a welfare department has in attempting to achieve the sociological purity

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[2] It is to be noted that basically family law is a matter of state definition—unless and until HEW defines what a substitute parent is this definition necessarily falls to the state legislature or state welfare agency.

[3] We consider that the primary significance of **Gardner** v. **Alabama**, 385 F. 2d 804 (5th Cir. 1967), **cert. den.** 36 USLW 3287 (Jan. 16, 1968) is that it establishes that public assistance monies may be withheld in order to accomplish collateral purposes when such purposes are necessary to accomplish national policy. In that case it was held that the Federal agency could require a state agency to execute a statement of compliance and assure the Federal agency that it would not utilize services of private vendors who will not offer services to public assistance recipients in compliance with Civil Rights regulations promulgated by HEW after passage of Title VI of the Civil Rights Act of 1964. The Alabama agency believes, therefore, that there is precedent for the concept that a public assistance grant may be withheld in the exercise of a far-reaching public policy collateral purpose. Another similarity to the position of Alabama in this case is that just as the **Gardner** case affirms the posi-

of suppliers of services to the poor as a condition to such suppliers, such as nursing homes and child caring institutions, being permitted to grant services to the poor. There were times during that dispute when the state-federal "partnership" might have resembled John Milton's description of a marriage when two carcasses are chained unnaturally together. Nevertheless, before, during, and since that litigation the caseload percentage of Negro families receiving ADC has increased in Alabama (See Brief for Appellants, pp. 35-38). Alabama has executed a Statement of Compliance with HEW and has been busily engaged in attempting to secure commitments of non-discrimination from suppliers of services to the indigent.

Since the Department of Health, Education, and Welfare, the agency charged with responsibility for interpreting the Social Security Act, has approved plans which contain the sub-classification of states defining informal family relationships, it seems clear that the Department of Health, Education, and Welfare in interpreting the Social Security Act has consistently construed the term dependent children who have been deprived of parental support as used in Section 606 of Title 42 to be capable of a separate definition by a state. For as pointed out in all of the briefs, the Department will participate in payments where deprivation of parental support means being deprived of the support of a parent who owes a duty of support by law—but it will also permit the state who might not elect to participate in the broader program to make its own definition of substitute parent so long as it does not offend other HEW requirements and

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tion that it is the future willingness and not the past practices of vendors to be sociologically in a position to receive payments. The Alabama regulation is similar in this respect also (Appellants' Brief, pp. 49-50).

constitutional requirements. If states with limited resources cannot make classifications based on informal arrangements, such states may with prospects of greatly increased caseloads find themselves in a position of not being able to provide responsible AFDC programs in the light of the AFDC "freeze" and available state funds. Since the 1967 amendment does affect this very classification of families with children who have been deprived of parental support or care by reason of continued absence from the home and since statistically this appears to be the greatest number affected, the very right of a state to continue to make these classifications could be the basis of a state legislature deciding whether it is worthwhile to continue an AFDC program. Certainly one of the reasons a state entered into the partnership arrangement in the first place was the financial inducement and the offer of Federal help in assisting these needy children. Some states may determine that private groups such as churches could offer a more flexible method of coping with the unique problems of inequality as it relates to dependent children.

It does appear that at the heart of this matter this Court is being asked to analyze the nature of the AFDC grant. Is it a grant which inures because of the situation of a child or is it a grant which is payable because of the situation of the family? In 1958 the Social Security amendment changed the name of the grant from Aid to Dependent Children to Aid to Families with Dependent Children. It would appear, therefore, that the whole concept of the grant is to be considered based on the situation of the family. This amendment passed after the Flemming Order does certainly reflect the intention that the grant be based on the situation of the family in which dependent children live. We note that this amendment was passed after the *Collins* v. *State Board of Social Welfare*,

248 Iowa 369, 81 N.W.2d 4. In that case the Court considered the situation of the child as the basis for the classification. Whereas there can be no doubt that it is the child and its situation of dependency which brings about the reason for the grant in the first place, the legislation nevertheless recognizes in changing the name to Aid to Families with Dependent Children that the child is dependent upon receiving the benefit of the monthly grant by and through the grantee relative (who generally is the mother).

Since the purposes of the statute are clearly enumerated in Section 601 of Title 42, supra, the aims being to help to maintain and strengthen family life, to help parents or relatives attain or retain capability for maximum self-support or personal independence consistent with the maintenance of continuing parental care and protection, authorizations for appropriations are given. To be realistic, who receives on behalf of the child the benefit of these purposes? When the statute speaks of strengthening family life does it not really mean helping the one parent or other grantee relative who is in charge of making decisions on how the monthly check will be spent? When the statute speaks of maintaining capabilty for the maximum self-support and personal independence and the maintenance of continuing parental care and protection is this not directed toward the grantee relative—in most cases the mother? Is it not the mother Congress wants to help become self supporting and independent? Is it not the mother who receives the check and decides how to spend it? Although some health services are offered children, day care services and other related activities a caseworker can find which will help a child, it does appear that the rehabilitative services outlined as well as the actual receipt of the check all are directed at the mother—and in the final analysis re-

gardless of the help that the Federal, State, or local governments provide, what happens to the child depends more on the mother than anyone else. Why is it contrary to public policy to refuse to place mothers involved in informal living arrangements in a preferential positon over those who are married?

The Alabama agency re-emphasizes that a grant is a regular payment of public assistance to a person who generally owes a primary duty of support to a child or children. A state is merely agreeing to assume some responsibility to make a payment and give services to help the grantee relative, but is assuming a limited responsibility and considers the responsibility contingent upon the family meeting all of its eligibility requirements. So even though we may speak of the right to receive aid if eligible, the right to be treated with dignity, the right to a fair hearing and the right not to be treated differently from others in the same situation, it is the mother who is expecting to receive the "rights." Public assistance is and always has been a gratuity, even though the above enumerated rights are accorded by the program. Though there may be many ways that Congress may elect to deal with and solve problems having to do with families with needy children, there is no constitutional requirement that they do so, nor is there a constitutional basis for them limiting what previously had been done.

In attempting to analyze the nature of the AFDC grant as it relates to Alabama's substitute parent regulation, the Alabama agency would like to re-emphasize that it has never considered that it is classifying the situation of illegitimate children but is basing a classification on the situation of the grantee relative who has a substitute spouse. This Court is being asked to look at each aspect of the Alabama regulation

and now that all of the substitute parent regulations of all the states that have them are set out in one of the *amici* briefs as well as analyzed in Appellees' Brief the agency would like to add this other significant point. The agency had not previously pointed out that the Alabama regulation had been patterned and based upon the Georgia regulation. It is, therefore, noted that the Georgia regulation is substantially like the Alabama regulation except for one point. The Georgia regulation, which has been approved by the Department of Health, Education, and Welfare since 1952, does not include relationships outside of the home but Alabama's does. However, there are several states whose regulations have been approved which do classify out-of-home relationships (See Brief for Appellees, Appendix 4a, No. 6). In view of the fact that other regulations have been approved by the Department of Health, Education, and Welfare, particularly the Georgia one, it is not altogether clear why the Flemming Order has any place in this lawsuit. If the English language means anything, it would appear that the Alabama regulation is no more violative of the spirit and letter of the Flemming Order than any of the similar regulations which have been approved by the Department of Health, Education, and Welfare. Since as recently as a few weeks ago the Department of Health, Education, and Welfare through its representatives affirmed in Federal District Court (*Roussaw, et al. v. Burson, etc., M.D. Ga.*, Macon Div., Civil Action No. 2323) in Georgia that the Georgia regulation had been approved by HEW, it would be helpful to have clarification as to why the Alabama regulation fails in any material respect to meet the same tests. Since the Alabama agency is asking this Court for judicial analysis of each portion of its regulation and since the lower Court considered this aspect as one of its major considerations, (A. 47-53) it is

believed that this comparison would be constructive and helpful.

Brief for Appellees (pp. 17, et seq.) continues the confusion between agency policy and legislation proposed by others. This confusion existed in the Opinion of the Court below, as was pointed out in Appellants' Brief, pp. 44 et seq. It will be found that the Appendix pages (A. 321, 362) referred to in Brief for Appellees (pp. 17, 18) are references to legislation proposed by others; this was not a proposal the Alabama agency was attempting to have incorporated into its public assistance plan. Any Bill introduced in the Alabama Legislature which would affect the Department of Pensions and Security is, of course, scrutinized by the agency; if any possibility of conflict with Federal requirements appears to exist in the proposed legislation, it is submitted to the Department of Health, Education, and Welfare for a determination of that question. Such Bills continue to be confused by Appellees with policy material submitted by the Alabama agency to the Department of Health, Education, and Welfare as proposed additions to its public assistance plan material. See Brief for Appellants, pp. 44-54. Some confusion has arisen over different uses of the expression "suitable home" —Alabama's only suitable home policy (discussed A. 592) preceded its hazardous home policy (Brief for Appellants, 51-54).

Since this agency is asking for an interpretation of each part of the regulation we do not think that the Flemming Order should be considered as it relates to any parts of the Alabama regulation since the Georgia regulation has received approval by HEW except in any way the Alabama regulation may differ from the Georgia regulation and any other than has been approved by HEW, Brief for Appellees, Table 2, 4a.

The Social Security Flemming Amendment merely restricted the operation of the Flemming Order.

One of the *amici* indicates that in an affluent society children have a "right" to welfare assistance.[4] Another *amici* writes as follows:

> "*At issue is whether or not the children in question shall live or starve.* (One might note, as the chairman of a special Senate subcommittee did recently, that 'whether the term used is malnutrition, hunger, or starvation makes little differences. Eyewitnesses, including members of this subcommittee, have observed and reported conditions that this subcommittee has described as "shocking" and as constituting a national emergency. These conditions are not new. . . . Nor are they peculiar to Mississippi. They exist in other states. They exist in other areas of the country.' Senator Clark, *Hearings on Hunger and Malnutrition in America,* Before the Subcommittee on Employment, Manpower and Poverty of the Committee on Labor and Public Welfare, U.S. Senate, 90th Cong., 1st Sess., July 11, 12, 1967.). . ."[5]

The concepts expressed in these two points show a rather startling lack of recognition of the effect of the 1967 Amendments of the Social Security Act upon the states administering the Aid to Families with Dependent Children programs. One answer to these briefs might be that the same Congress which had the benefit of the testimony of the hearings on hunger and malnutrition in America enacted the AFDC "freeze." That same Congress enacted the new work incentive provisions in AFDC. At no time has the Social Security Act,

[4] Brief of Child Welfare League, et al., page 6.
[5] Brief of the NAACP Legal Defense and Educational Fund, Inc., et al., page 39.

as currently amended, moved more in the direction of limiting the money payment in AFDC as a method of alleviating need. If the issue in this case is whether or not the children in question shall live or starve and the amount of the ADC grant remains the same or is reduced, it does not look as though the ADC grant will play a particularly large part in alleviating malnutrition, hunger, or starvation regardless of the decision of this Court. The AFDC grant has never insured any child of a balanced diet. The check goes to the mother. It has been expressed judicially that there is concern and alarm in some quarters that she might spend this check in a manner which would inure to the material benefit of the man-in-the-house rather than the children.[6] In Alabama the matter of actually feeding the children is considered to be more in the areas of the programs offered through the Department of Agriculture in its Food Stamp and Surplus Commodity Distribution programs.[7] The purpose in AFDC

[6] A portion of the court reporter's transcript of the case is quoted in the Congressional Record, Senate, October 21, 1966, at page 27324; opinion of the Court appearing as **Smith et al., v. Board of Commissioners of the District of Columbia,** 259 F. Supp. 423, particularly the statement that " . . . we have seen a great deal of discussion on the man of the house rule. Of course that rule is intended to prevent diversion of funds intended for children to the support of an unemployed idle paramour. . . . "

[7] It is difficult to discover the source of the publicity circulated through Washington, D. C. during the course of the recent litigation surrounding the Department of Agriculture in a suit relating to distribution of commodities and food stamps to needy families in Alabama. Upon hearing that hundreds of children were dying of starvation in Alabama, counsel secured information from the Bureau of Vital Statistics which indicated that no statistics had been compiled for the year 1967 on deaths caused by malnutrition or starvation and that the total deaths of children in Alabama in 1966 which could be reasonably attributed to malnutrition were 8 and that there were no indications that the 1967 figures would be proportionately in excess, that these figures were not out of line with other years, and that there were very few children and in most instances the lack of food was not the actual cause of death.

is to get a check and services to the AFDC family; and the purpose of the Department of Agriculture pursuant to its legislative authority in connection with Surplus Commodity and Food Stamp programs throughout the country is to provide food to needy families. Under the new Work Incentive Program the purpose of the Federal and State Labor Departments is to get the AFDC mother employed. In Brief for Appellants, pages 16-19, we attempt to show some of the other efforts under way to assist needy families with children pointing out that the AFDC grant as a way of alleviating need is on the decline. If the present AFDC "freeze" legislation remains in effect there will no doubt be considerable need to utilize other types of resources to help needy families.* The statistical information received from the

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* The Alabama agency is delighted to learn of the interest of the National Council of Churches in the plight of needy children. Without tremendous appropriations to make adequate provision for the increasing number of children born to poor families, the resources of all private agencies will need to be utilized to the fullest. Accordingly, in a civilized society, particularly an affluent one, it would be hoped that the National Council of Churches and individual churches, particularly the affluent ones, will make appropriate responses. Some of the ways in which churches and church members may be helpful to dependent children would be to: provide funds and facilities for day care including after-school care; recruit family day care homes and boarding foster homes; pay for medical care and psychological services for children; establish baby-sitting services; develop recreational facilities and provide leaders and chaperonage at recreational facilities; develop classes for teaching, sewing, personal care, hobbies, etc.; pay dues to YMCA and YWCO clubs, scouts, etc.; provide summer campships; tutor children, provide funds for music lessons, etc.; distribute used magazines; collect, renovate, and staff clothing closets; become informed about existing programs of agencies; interpret needs; develop Family Life Conferences; support and provide funds for improvement and enrichment of church child-caring institutions' programs; assist in locating part-time and summer jobs for children and youth; provide funds for scholarships for nursing courses, business courses, courses in cosmetology, etc.; and provide funds for maternity care,

Bureau of Vital Statistics, Alabama Department of Health, does not reveal the actual facts of deaths caused by starvation—particularly as this relates to children—and some of the "noises" created about increased starvation appear considerably exaggerated.[9] The Alabama agency does take the position in its Brief, as well as to Congress,[10] that there are great unmet needs. We earnestly contend, however, that these problems should be addressed to the legislative branch of government.

We believe the discussions in all of the briefs which state that the substitute parent rules discourage marriage are specious. As long as the Social Security Act permits classifications based on two able-bodied persons in the home, it does not appear that a state rule including informal relationships discourages marriage. The opposite is true. The references to the California rule were not confused and the Brief for Appellants did not confuse the California approach to step-parents and the man-in-the-house. The public policy issue is the same. The discussion on pages 22-27, Brief for Appellants sets out in principle that a sensible way to eliminate the deterrent effects of the informal living arrangements over the marriage arrangements is by eliminating the financial premium on those informal relationships. Under the present situation a state either encourages or discourages the stability of those families who expect to receive a governmental in-

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including layettes, etc. (cf. **Are You Running With Me Jesus**, Malcolm Boyd, Sixth Avon Library Edition, Sept. 1967, pages 38, paragraph 3, 53, paragraph 4, 104, last paragraph.)

[9] See Exhibit A hereto.

[10] The branch of government which is able to remedy the problems set out in appellees' and the amici briefs, we believe, should be the legislative branch of government, for without proper fiscal responsibility there can be no improvements. See Exhibit B hereto.

come increment. We do not accept the reasoning that the possibility of the unemployed parent option can cure this. The State of Michigan, for example, has exercised the unemployed parent option and also has a substitute parent rule.

It is possible that some of the persons who receive welfare grants have believed they were receiving something in the nature of a Social Security grant. Many of the efforts in changing terminology in welfare practice no doubt confuse recipients about the nature of the grant. It may be that Appellee Smith in this case had actually believed that her children were entitled to receive a welfare grant almost as though it were an OASDI benefit. (A. 133) This is why the term "as a matter of right" in public assistance can be confusing and misleading and if a person believes as a matter of right she is entitled to receive a public assistance grant, as though it were Social Security benefits, the rules of eligibility would indeed appear to be harsh. Nevertheless, all of the efforts which are made to be sure the grant is made in a dignified way cannot change the responsibility of a caseworker to determine if the person is or is not eligible.

Opposing briefs appear to wish to solve the problems of the needy mothers by re-arranging the way HEW through the years has interpreted the Social Security Act. The Alabama agency urges that a reshifting of legal words in a court decision cannot result in larger money grants to more needy persons. At this moment no one knows if Congress will make substantial changes in the Social Security legislation. The responsibility for finding a creative method of solving such problems cannot be the problem of the judiciary. The time to make new bottles in matters of government largess is

when the new wine of appropriations can be poured into the bottles."

PURPOSES OF AFDC

The rather startling statement appearing in one of the *amici* briefs that "a state may not adopt a measure to limit the birthrate of poor people" should come as a surprise to Congress since in the 1967 Amendments to the Social Security Act Congress requires the states to do just that. (See Brief for Appellants, page 59, footnote 39). The Alabama agency does not believe that *Skinner* v. *Oklahoma*, 316 U.S. 535, intends anything more than the inability of a state to set up unfair classifications relating to sterilization. It seems strange that at this point in history any nation would by a rule of law be prevented from dealing with what many persons consider to be the number one problem facing humanity."

" In the light of the sweeping changes recommended by the President's Commission on Civil Disorders and with full recognition that other commissions and groups are studying other new proposals (e.g., the President's Commission on Income Maintenance Programs), it seems particularly appropriate that the problems to be solved here are those of a related nature dealing with the unique aspects of this case and the particular Alabama regulation in the light of the Alabama welfare program and the Social Security Act within the context of equal protection concepts. . "Of course, present problems will be clarified by reference to future ends; but ends, although they have a future bearing, must obtain their significance in present consequences, otherwise those ends lose their significance. . . . If the decision of a particular case takes the form of the enunciation of a rule with emphasis on its future incidence, the tendency will be to connect the past by smooth continuities with the future, and the consequence will be an overlooking of the distinctive novelties of the present. . . . " **Law and the Modern Mind,** Jerome Frank, Anchor Books, Doubleday & Company, Inc., Garden City, New York, page 166.

" See Chapter 4, pages 159-210 entitled "The Economic Precipice" in **The Anguish of India,** Ronald Segal, A Signet Book, 1965.

Section 201 of the 1967 Amendments amending §402 (P.L. 90-248) of the Social Security Act includes the following language:

"'. . . (14) provide for the development and application of a program for such family services, as defined in section 406(d), and child-welfare services, as defined in section 425, for each child and relative who receives aid to families with dependent children, and each appropriate individual (living in the same house as a relative and child receiving such aid whose needs are taken into account in making the determination under clause (7)), as may be necessary in the light of the particular home conditions and other needs of such child, relative, and individual, in order to assist such child, relative, and indivdual to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development'; and

(C) adding after clause (14) the following new clauses: '(15) provide —

'(A) for the development of a program for each appropriate relative and dependent child receiving aid under the plan, and each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), with the objective of —

'(i) assuring, to the maximum extent possible, that such relative, child, and individual will enter the labor force and accept employment so that they will become self-sufficient, and

'(ii) preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life,

'(B) for the implementation of such programs by —

'(i) assuring that such relative, child, or individual who is referred to the Secretary of Labor pursuant to clause (19) is furnished child-care services and that in all appropriate cases family planning services are offered them, and

'(ii) in appropriate cases, providing aid to families with dependent children in the form of payments of the types described in section 406(b) (2), and

'(C) that the acceptance by such child, relative, or individual of family planning services provided under the plan shall be voluntary on the part of such child, relative, or individual and shall not be a prerequisite to eligibility for or the receipt of any other service or aid under the the plan, . . . "

It is to be noticed that some of the language concerning purposes of AFDC which had been contained in Section 401 of the Social Security Act, pertaining to appropriations, has been restated in Section 402 which relates to state plans for aid and services to families with needy children. It is quite clear from the 1967 Amendments that the state plans must relate to maintaining and strengthening family life and helping parents or relatives attain or retain capability for self-support and care. It is quite clear that Congress may withhold all sorts of facilities for a better life. *American Communications Ass'n.* v. *Douds*, 339 U.S. 382, 417 (1950). Equal protection of the law when it relates to a State-wide grant could be described as the haunting problem in a bureaucracy, for everything must be measured by equal standards even when the task to be solved in problems relating to poverty is the problem of inequality itself in its most blatant and puzzling form. The problem of

the administrator of the Alabama welfare agency, therefore, is how to effectively and creatively give genuine assistance and make a responsible effort to accomplish the goals of the Social Security Act and deal with the unique problems of inequality within the context of the equal protection concept.

Is it possible to arrive at a fair rule and apply equal protection of the law without analyzing the nature of the riddle of inequality as well as Governments' efforts to deal with this? These questions have been posed by Paul Tillich as follows:

> "But the question of inequality has not yet been answered. For now we must ask — why do some of us receive more than others in the very beginning, before using or wasting our talents is even possible? Why does the one servant receive five talents, and the second, two, and the third, one? Why is one person born to desperate poverty, and another to affluence? To reply that much will be demanded of those to whom much is given, and little of those to whom little is given, is not adequate. For it is just this original inequality, internal and external, that gives rise to the question."[13]

In analyzing efforts of Congress to deal with the beneficent interest of government to alleviate human suffering it is obvious that these efforts focus on particular problems and the efforts in and of themselves attempt to limit the scope to the particular problem to be dealt with. For example, in health problems it would not be unusual if Congress chose to make particular efforts in programs to help sufferers of cancer or heart trouble and not undertake other tormenting diseases. Later another health problem might be presented and Con-

[13] **The Eternal Now**, Paul Tillich, Charles Scribners' Sons, New York, 1963, pp. 40-41.

gress may or may not choose to enact legislation and appropriate funds to deal with the matter presented. The way in which inequalities receive governmental attention at the national level may pose problems of social inequality which is not a denial of equal protection of law. In other words, there are many needs and many social problems which may or may not be tackled by government—local, state, or federal. One of the problems a state government has when it undertakes to assist a group of persons in public assistance is that of limiting the assistance, particularly in instances when it has once been given. This will certainly be the problem in states which attempt to limit assstance and engage in a program which permits fewer recipients to receive larger grants in line with the 1967 Social Security Amendments.

In arriving at methods to limit assistance a welfare agency is not always claiming that the groups who are no longer receiving assistance no longer have needs. The Alabama agency does not desire to limit assistance in a manner which limits human dignity, but it is looking for a fair method of limiting the groups assisted. Paul Tillich writes further:

> "Let us not confuse the riddle of inequality with the fact that each of us is a unique and incomparable self. Our being individual certainly belongs to our dignity as men. This being was given to us, and must be made use of and intensified, not drowned in the gray waters of conformity that threaten us so much today. One should defend every individuality and the uniqueness of every human self. But one should not be deluded into believing that this is a solution to the riddle of inequality."[11]

It must be maintained that the individual has a unique worth

[11] Paul Tillich, Ibid., pp. 41-42.

independent of his social usefulness. Nevertheless, the immediate abolition of inequality does not appear imminent.

> "He who has witnessed hospitals for the ill and insane, prisons, sweat shops, battlefields, people starving, family tragedies, or moral aberrations should be cured of any confusion of the gift of individuality with the riddle of inequality. He should be cured of any sense of easy consolation."[15]

There is not only the problem of the donor arriving at the right gift, there is always the problem of the recipient's ability to receive it.

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[15] Paul Tillich, ibid., p. 42. There are those who do visualize utopia.

> "I would nevertheless insist on the relevance of the utopian, decentralized, and democratic state where, within the bounds of ever more effective overall policies laid down for the whole national community, the citizens themselves carry more and more of the responsibility for organizing their work and life by means of local and sectional cooperation and bargaining with only the necessary minimum of direct state interference. This utopia is, in my belief, a real goal. It is inherent in those ideals of liberty, equality, and brotherhood that are the ultimate driving forces behind the development of the modern democratic Welfare State." Gunnar Myrdal, **Beyond the Welfare State**, Yale University Press, Fifth Printing (1966), p. 96.

Another point of view, however, with respect to utopia has been expressed as follows:

> "We may notice, incidentally, about any such ideals from Plato's **Republic** onwards, that no one really wants to live in the ideal state as depicted by anyone else. Moreover, there is the desperate difficulty of getting there. When I read any description of an Ideal State and think how we are to begin transforming our own society into that, I am reminded of the Englishman in Ireland who asked the way to Roscommon. 'Is it Roscommon you want to go to?' asked the Irishman. 'Yes,' said the Englishman; 'that's why I asked the way.' 'Well,' said the Irishman, 'if I wanted to go to Roscommon, I wouldn't be starting from here.'" **Christianity and Social Order**, William Temple, SCM Press Ltd., pp. 51-52.

APPELLEES HAVE NOT ESTABLISHED RACIAL DISCRIMINATION

Appellees have altogether failed to establish that there has been racial discrimination in the formulation or application of the regulation. None of the appendix pages referred to by Appellees come close to establishing this. Such purposes as Appellees refer to as the "stated purposes" of the substitute parent regulation never existed and are not supported by the Appendix references cited in Brief for Appellees. Appellants submit that the evidence in this case shows that needy Negroes in Alabama are not receiving a wrongful distribution of government largess in ADC (Brief for Appellants, pp. 35-38). We do not believe that Appellees have shown that they are being subjected to an unfair regulation which is being applied in a discriminatory fashion.

Appellees seek to dispute the obvious fact that Negro families receive the largest share of ADC benefits and that the number of these grants steadily increased during the time the regulation was in effect by quotations from texts which do not in any way negate the facts in this case. There is an attempt to equate statements of political personalities from other states who had opposed desegregation and an attempt to conclude that the fact that they opposed desegregation must be a basis for imputing to those leaders a desire to wreak wrath upon ADC mothers. Regardless of what any text writers have assumed in any other state, the facts in this case show that the percentage of the ADC caseload as it relates to members of the Negro race steadily increased during the time the regulation was in effect and there is no evidence that the Alabama Negro population has increased proportionally. Appellees have cited no drastic employment crises or other

reasons why the caseload would have risen to offset this obvious fact. There is no evidence that any white person has been treated differently.

NO AS DISTINGUISHED FROM YES AND NO

When viewed in the light of the resources* the state has to strengthen family life and rehabilitate AFDC families, it does not seem invidious to say *no* to persons living together out of wedlock if aid is also denied when there are two able-bodied married parents. In a state with limited resources it is most important that the public assistance recipients themselves feel a sense of fairness. A needy mother of any race whose aid is denied because she is married would be right in asking why her neighbor who lives with a man out of wedlock should get a welfare check.

The regulation does affect many members of the Negro race. To fail to say *no* to practices which do not help the low income groups achieve economic wholeness does not honor the very low income groups nor the Negro families who have come from slavery to responsible citizenship and leadership. Abraham Lincoln observed that you cannot help men permanently by doing for them what they could and should do for themselves. At this moment in our history is a paternalistic differentiation required? Does a firm "No" dishonor any low income member of any race? The Social Security Act has as one of its objectives the goal

* Some Schools of Social Work have taught through the years that it is difficult to establish a casework relationship which would be strong enough to break or substitute for the sex relationship. In the substitute parent regulation, the Alabama agency is clearly acknowledging the proof of this principle. During the time payments were made to families who live in these informal arrangements mothers did **not** appear to have an incentive to say **no.**

of stopping dependency upon the government (Brief for Appellants, pp. 14-17, 60-61). That the Alabama regulation approaches the problem from the standpoint of the negative is not unlike the Bill of Rights, which to preserve the dignity of individual man, tells government what it cannot do. Eight of the Ten Commandments also thunder *no*.

In Brief for Appellees, page 44, footnote 31, Appellees refer to the report of the National Advisory Commission on Civil Disorders and quote a portion of the report. It is significant that the man-in-the-house rule (and *not* a substitute father rule as stated by Appellee P.72 Appellees Brief) referred to in the report includes a husband. It appears that the report is advocating that the two able-bodied parents rule be abolished whether the person living in the home is or is not married to the mother. It appears that the report is not referring to the practice of classifying families who live in informal arrangements as opposed to those where there is a marriage, but the report advocates a rule which allows family grants to needy families regardless of the presence of a man in the home, whether the man be a husband, a father or a person owing no legal duty of support. It appears that the classification change the Commission's report wishes to effect is a classification which involves any rule based on marriage or any other test of the "thereness" of a man-in-the-house. Such a change clearly addresses itself to the Legislative branch of government."

The Alabama agency does want a rule which will best help the mother to say "no" to situations which do not help

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" It is also to be noticed that several of the places referred to in the Commission's report did not have a substitute parent or a substitute spouse rule.

her or which result in more children who need care at government expense. The Alabama agency does not have the complete answer to that question, but early returns from the study[18] that is now being made of the caseload affected, which is available since the vacation of Justice Black's original stay Order, shows some very positive results of the regulation.[19]

Although, as pointed out by one of the *amici* briefs, the Alabama regulation does not require complete chastity as a condition precedent to public aid in Alabama, it does seem to require that the mother agree to some degree of continence. Is there anything really *bad* about continence? Does the literature of the New Morality or the Kinsey Reports actually prove that continence is not a better way of life? Unbridled sex in this country recently has been more stylish. But a number of practices in the American society have been "stylish" before this court reversed the trends. Can it really be seriously advanced that informal living arrangements and unruly promiscuity actually help the poor or the affluent? The lower Court said "The approval or disapproval of sexual promiscuity is not here involved," (A. 57) maybe welfare agencies will believe this, and maybe learned lawyers who know how to group and regroup legal theories will believe this — maybe many very well meaning organizations who want very much to help the low income members of society have more than they now have will believe this — but will the low income

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[18] See statistics and Exhibit E in Brief for Appellants, pp. 85-91.

[19] The lower Court did not have the benefit of this. In answer to one of the **amici** questions about what happened to those who did not marry in Dallas County, the answer is set out on p. 91 in Brief for Appellants. See also memorandum p. 87. c.f. "A Continuing Dialogue on Marriage: Why Just Living Together Won't Work," **Redbook**, April 1968, pp. 44 et seq. and in the same issue "When Hippies Become Parents," Dixie Dean Trainer, pp. 66 et seq.

married family who does not receive a public assistance check and who sees the postman deliver one to the neighbor in similar economic circumstances who does live out of wedlock believe this?

If informal marriage arrangements — and Appellants have asked this Court to rule on three types of these arrangements (Brief for Appellants, pp. 54-69) do not in the long run actually help the poor, why should there be a national policy favoring this? If Congress or State Legislatures wish to obviate the necessity for limiting caseloads and these classificatons, let them write the statutes and appropriate the money to do it. But as far as this case goes, Appellants submit that there is a lot to be said for continence whether it is being expressed by a low income person from New England who has his roots in stern puritanism, whether it is expressed by a low income member of the Negro race who has risen from the sexual abuses practiced during slavery and recognizes that "to be free at last" also means giving up the practices which may now be described as a form of self-imposed slavery, or whether it is expressed by the poor Bible-belt white Southerner who knows he has not solved all of his problems either, or the low income Westerner who recognizes somewhow that the Hollywood image of sex life is not really what everybody wants.

Without being moralistic, hypocritical or puritanical, there is much to be said for continence. It would be a most refreshing breeze to blow over this country. Imagine turning on television and listening to programs which not only extolled continence and chastity but which also pointed out the attractive aspects of purity. Appellants submit that the important reason that married low income families and the public wants the ADC mother to be able to say "no" is really because there is a

great longing in everyone for all mothers, poor and affluent, to say "no." There is no government grant or service which would give more to an ADC child—or any other child—than a social order which, again, makes it wholesome and stylish for a mother to say *No* to adultery and fornication.

Nature places a great privilege and a great responsibility on women. Neither Appellees nor *amici* have shown exactly why saying a judicial *yes* to cohabitors out of wedlock is going to help a deserted mother, widow, or unwed poor mother or affluent mother get a husband — particularly one who is apt to be helpful with the children. It may be an extremely old fashioned notion, but Appellants advance that the opposite is more nearly true (not that merely getting a husband would necessarily solve all of her problems).

In the long run continence and chastity make better homes. Continence and chastity make better mothers and fathers. This is true for affluent fathers and mothers and poor fathers and mothers. The Alabama agency does not think this Court would apply such a public policy matter differently to an affluent family in an analogous situation. The mere fact that the question coming to this Court affects poor persons right now does not mean that this Court would later set up another rule of law for the affluent.

There appears to be a belief held among many that sexual relations are necessary to health. This belief could have been the motive for Appellee Smith's statements that she intended to maintain a relationship with some man (A. 256, 267, 268). Appellants deny the validity of this belief and assert that chastity does accord with good health.

This Court in viewing questions on rights of privacy and self-incrimination can refuse to be led off on all sorts of

tangents which could make it difficult for States to make such classifications, and by looking very closely at the confidentiality statutes can recognize that these statutes do protect the ADC mother. This Court can also recognize that this regulation relates to future conduct and like *Gardner* does *not* condemn past conduct. The regulation says to the mother "Go and 'cohabit out wedlock' no more" just like *Gardner* says to persons who supply services to the poor "Go and discriminate, because of race no more" if you want the public assistance payment.

If this Court was asked to make a decision affecting the right of a State to make a classification affecting children of affluent persons in an analogous situation, would there be any hesitation to move in the direction of rules which encouraged continence? Would this Court have any reluctance to say to the affluent that continence and chastity are the cement of civilization? Do you help the poor by setting up a different standard? There is nothing this Court, Congress, Legislators, public and private agencies, and churches can give needy children in today's unglued society that would be better than the hope that some day all children will have better parents.

Appellants submit that the ADC mother who brought this suit has been benefitted* by the regulation. Appellants submit that in Alabama the regulation comes closer to achieving the purposes of the Social Security Act — to "strengthen family life" than an opposite course of action in view of the fact that the regulation operates in a State where aid is denied "able-bodied" families when there is a marriage. Obviously the adultery and fornication statutes are not effective vehicles

* In a press interview it has been reported that the relationship has been broken now and that Appellee has secured better employment. **The Birmingham News**, February 4, 1968, p. B-4.

for meeting the Twentieth Century's public interest in strengthening family life. Recognizing that a welfare agency is not apt to achieve total continence on the part of the poor (or anyone else) and with full knowledge that the agency would not be in this Court if it knew all of the answers to informal practices and with full recognition that getting checks and services to needy families is the primary responsibility in the ADC program, Appellants do urge this Court to grant whatever relief is meet and proper in the premises.

In its present role in attempting to achieve sociological purity of the suppliers of services to the poor pursuant to *Gardner*, the Circuit Court of Appeals did point out that all the agency had to do was *try*. The Alabama agency argued that somehow it seemed wrong to withhold a public assistance vendor payment to a nursing home or child caring institution who was giving a service to the needy as a method of achieving sociological purity. The Agency lost that case.

In the event this Court wishes to honor the concern for chastity and continence on the part of the needy families who do not get welfare checks, as well as the desire of the agency to give higher payments to those who remain on the rolls (the ADC payment has now risen from 38% to 50% of the budgetary deficit, with an average payment of $64.54 per family in February, 1968, as distinguished from $48.15 in June of 1964), the Alabama agency, a servant of the public whose job is to offer some service to the poor, stands ready in this matter to *try*.

CONCLUSION

No one knows what the future holds with respect to the shape of new solutions to the problems of the indigent which

pose the problem of inequality and man's efforts to overcome it, but there are certain unique features of man and functions of law which appear in every age and every society to consider.[n]

The Alabama agency submits, as it pointed out in its Brief, that the presumption is that the ADC mother can make good use of the assistance which the State gives her, but the agency also is confronted with the problem of informal arrangements and the public's interest in not favoring these arrangements over legally contracted marriage. The Alabama agency does not know if the future planning for the needs of the indigent will obviate the necessity for judicial determination of the right of the State agency to make fair classifications of these informal practices, but it is within the legislative

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[n] St. Thomas Aquinas in his **Treatise on Law** explores in his chapter "Of Human Law" the following:

> ". . . As stated above . . . man has a natural aptitude for virtue; but the perfection of virtue must be acquired by man by means of some kind of training. Thus we observe that man is helped by industry in his necessities, for instance, in food and clothing. Certain beginnings of these he has from nature, viz., his reason and his hands; but he has not the full compliment, as other animals have, to whom nature has given sufficiency of clothing and food. Now it is difficult to see how man could suffice for himself in the matter of this training: since the perfection of virtue consists chiefly in withdrawing man from undue pleasures, to which above all man is inclined, and especially the young, who are more capable of being trained. Consequently a man needs to receive this training from another, whereby to arrive at the perfection of virtue. . . . **as man is the most noble of animals, if he be perfect in virtue, so is he the lowest of all, if he be severed from law and righteousness;** . . . " Thomas Aquinas, **Treatise on Law, (Summa Theologica,** Questions 90-97), A Gateway Edition, Chicago, Henry Regnery Company, pp. 74-76.

province to do so.[25] To deny ADC benefits when the mother chooses to keep her substitute spouse rather than the ADC

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[25] In **The Christian Science Monitor** of April 3, 1968, "New day on Poverty Row?", William H. Stringer writes in part as follows:

"'Nobody's gonna tell me how many kids I can have,' exclaimed the militant black matron on the television documentary. All right ma'am, but who's going to pay for their upbringing, and provide their motivation? Maybe you were thinking of Uncle Samuel as the good provider?

"Concepts of welfare are undergoing plenty of re-thinking in the United States. What to do about the eight to 30 million Americans below the poverty line (depending on where you draw that line)? The issue is identified by the new Secretary of Health, Education, and Welfare, Wilbur Cohen, as 'the problem of people with low-education and low work skills and lots of children.' In the cities these are mostly Negroes; in the Appalachians, they are whites.

Shall there be a multiplicity of service programs—Head Start, community aid, family planning, vocational training for mothers, and many more? Or shall there be mainly a family allowance system, as in Canada, plus a federal guarantee of full employment, as proposed by Daniel Moynihan, director of the Harvard-MIT Joint Center for Urban Studies? Secretary Cohen says the United States is going to spend $10 billion a year on welfare anyway. How build more efficiency, self-reliance, into the present sprawl?

"The search must be for a program that breaks the cycle which repeats poverty and lack of motivation, generation to generation. Will a family allowance plus guaranteed full employment do the trick? Or should we try this new-fangled 'negative income tax,' which means that if your income is above a certain figure you pay the government, but if it's below, the government pays you. A presidential commission is studying these controversial proposals.

"America may be a wealthy society, but Secretary Cohen reminds that the Protestant ethic strongly influences people to be against giving money to somebody for doing nothing. 'Why should I pay some 35-year-old guy with a wife and kids just to sit on his front porch?' Just lately Britain, which has stood for cradle-to-grave welfare available to everybody, has decided that some assistance must be selective—available only to the really needy, if the country is not to go broke.

"The essential goal, really, is to provide children with good parents! . . . "

grant does not deprive her or her children of a constitutional guaranty or effect an invidious discrimination when a married mother in similar circumstances is also denied aid. The problems posed by informal marriage arrangements cannot be solved by favoring them over marriage in AFDC programs or other programs.

For the reasons stated in Appellants' Brief and Reply Brief, it is respectfully submitted that the Order and Decree of the District Court for the Middle District of Alabama, Northern Division, in this case should be reversed.

Respectfully submitted,

MACDONALD GALLION,
Attorney General,

MRS. MARY LEE STAPP,
Assistant Attorney General,

MRS. CAROL F. MILLER,
Assistant Attorney General,

Room 578, Administrative Building,
64 North Union Street,
Montgomery, Alabama 36104,
Attorneys for Appellants.

Exhibit A

State of Alabama

DEPARTMENT OF PUBLIC HEALTH

BUREAU OF VITAL STATISTICS
State Office Building
Montgomery, Alabama 36104

March 26, 1968

Mrs. Mary Lee Stapp
Legal Counsel
Department of Pensions and Security
State of Alabama
Montgomery, Alabama 36104

Dear Mrs. Stapp:

As requested in the course of our conversation over the telephone, I furnish these comments relative to reports which have been circulated that many infants in Alabama die from starvation.

Statistical tabulations for the calendar year 1967 have not been finalized in the detail necessary to be pertinent to the question. However, calendar year 1966 data show a total of 56 deaths in Alabama caused by malnutrition. Note that these deaths were of all ages and races in our population. Most of these deaths attributed to malnutrition involved deficiencies and maladjustments in food assimilation and metabolism. They were not deaths due to starvation in the usual meaning.

Of the 56 total deaths, only 8 were infants and these were deaths attributed to lack of care. Now "lack of care" as stated would include hunger, thirst or exposure. These statistics reveal how unfounded in fact an allegation can be that hundreds of children die from starvation within a year in Alabama, or any other state.

Sincerely yours,

RALPH W. ROBERTS
State Registrar

RWR/r

Exhibit B

State of Alabama

DEPARTMENT OF PENSIONS AND SECURITY

Administrative Building
64 N. Union Street
Montgomery, Alabama 36104
March 19, 1968

Honorable Wilbur D. Mills, Chairman
House Committee on Ways and Means
House Office Building
Washington, D. C.

Dear Mr. Mills:

We understand that there have been a number of bills introduced in the Congress proposing to repeal or modify some of the 1967 amendments to the Social Security Act, as well as to change the method of federal participation in the costs of child welfare services under Title IV, Part B. While we have not noted that your committee is holding hearings on any of these proposals, we are writing to express our deep concern about some of the 1967 amendments,

The AFDC freeze which is effective July 1, 1968 is in direct conflict with the overall philosophy of the programs established under the Social Security Act. This philosophy is that there should be equity of treatment of persons in similar circumstances throughout the State. The HEW guidelines on the freeze would prevent states from having a waiting list for the AFDC program. In essence, therefore, it will result in either the state picking up the tab for the children of absent

parents in excess of the average number reciving aid for the first quarter of this year as related to the child population on January 1, or else would require a change in eligibility requirements or a reduction in grants to all children. Alabama is able to meet only 50 percent of the basic needs of children in AFDC families under standards which have not been up-dated for some time. These standards have not been up-dated because we have been unable to meet need under present standards. We would hope very much that the freeze provision of Title IV would be repealed.

Likewise, we are concerned that the federal government puts up only one-half of the costs of home repairs and emergency assistance under the 1967 amendments. We see no reason why this type of aid should be on a different basis from the other types of public assistance. In addition we object to the fact that the protective payments for children in AFDC families were made mandatory by the 1967 amendments. Again, we believe that this violates the money payment on an unrestricted basis which is inherent in most of the other aspects of the Social Security Act. The fact that Alabama is able to meet only a percentage of the needs of these children also makes it extremely difficult to develop policies to implement this mandatory provision. Congress is to be commended on its action in the 1967 Social Security Amendments on making a uniform exemption of all income of members of AFDC families. We think this is a step in the right direction and would like to see the same kind of provision for the other categories of public assistance.

In the Work Incentive Program we are pleased that the Department of Labor is responsible for the developing of projects for appropriate members of AFDC families. This is in line

with our position taken last year that work training programs should be handled by an employment agency instead of by a welfare agency. It is quite difficult, however, for the Pensions and Security Department in Alabama to discharge its obligation under the Work Incentive Program. The matter of transfer of funds from one agency to another may be impossible without additional legislation. Also, the agency has its appropriation through September 30, 1969, and the 20 percent cost which the state has to pay, and for which the welfare agency is responsible, for projects under the program would be difficult to meet.

We are pleased to see that legislation has been introduced proposing an open-end appropriation on a variable grant formula for child welfare services under Title IV, Part B. Alabama has long been concerned about the proportionately small investment which the federal government has made in the child welfare program. As you will see from a copy of a letter which I have just written Congressman Flood, we are urging the Committee to give favorable consideration to appropriating the full $100 million authorization for this service if the pending legislation on changing the method of financing child welfare services is not enacted by the time the appropriation is made. Under the present legislation, federal funds defray only about one-third of the total identifiable costs of child welfare services in Alabama. This is in sharp contrast to the approximate 75 percent it defrays of public assistance expenditures.

Again, I should like to reiterate that this agency for many years has been committed to the principle of a variable grant formula for all aspects of the public welfare program, including child welfare services, administration, public assistance,

and other social services. We think some progress has been made in this area but would like to see it extended.

We shall appreciate it if you will give consideration to these comments if and when your committee considers the Social Security Amendments. We are taking the liberty of furnishing copies of this letter to appropriate interested individuals.

Cordially yours,

RUBEN K. KING
Commissioner

cc: Members, Alabama Congressional Delegation
Department of Health, Education, and Welfare
Child Welfare League of America
American Public Welfare Association
Hon. Daniel J. Flood
Hon. Russell Long

State of Alabama

DEPARTMENT OF PENSIONS AND SECURITY

Administrative Building
64 N. Union Street
Montgomery, Alabama 36104
March 18, 1968

Honorable Daniel J. Flood, Chairman
Subcommittee on Labor-HEW Appropriations
House Committee on Appropriations
House Office Building
Washington, D. C.

Dear Mr. Flood:

We understand that your committee is considering appropriations for health, education, and welfare for the fiscal year ending June 30, 1969. We are deeply concerned about the fact that the budget which you have proposes an appropriation of $46 million for child welfare services under Title IV, Part B of the Social Security Act. This is less than one-half of the $100 million which is authorized by the Congress for this purpose and is no more than the appropriation for the current fiscal year and the past fiscal year. Because of a change in the formula, the amount from the 1968 appropriation which Alabama receives is actually less than that received for the fiscal year ending June 30, 1967. This sharply curtails the State's ability to meet the needs of runaway children, young unmarried mothers, and children in need of day care and boarding home care.

We should like to reiterate our belief that all appropriations for public welfare services should be on a variable grant basis,

equally applicable to administration, services, and public assistance, and by services we include child welfare services under Title IV, Part B. While we recognize that your committee has no authority to make substantive changes in Social Security legislation, we hope you will use your influence as members of the House in seeing that federal funds made available for services and assistance for children are increased so that there will be no preferential treatment. Over the years, the average federal participation in AFDC has been far lower than for OAP, AB and APTD. This is graphically illustrated by the fact that at the present time the average money payment in which the federal government will participate is $32 a month per eligible recipient in AFDC as contrasted with $75 per month in other categories. Even more startling is the participation of the federal government in child welfare services. This is a closed-end appropriation and we see no reason why services to children, the hope of the Nation, should not be federally financed on the same basis as AFDC assistance for children, and also that AFDC assistance for children should not be on the same basis as for adults.

We would urge your committee to appropriate the $100 million authorization for child welfare services, if the method of financing has not been changed by the time the appropriation is made. We hope that Congress will act favorably on pending legislation to change to an open-end variable grant formula the method of financing the child welfare service program authorized by Title IV, Part B.

Cordially yours,

RUBEN K. KING
Commissioner

cc: Members of the Alabama Congressional Delegation
Department of Health, Education, and Welfare
Child Welfare League of America
American Public Welfare Association
Hon. Wilbur Mills
Hon. Russell Long

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 949

RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County, Department of Pensions and Security, individually and in their official capacities,

Appellants,

—against—

MRS. SYLVESTER SMITH, individually and on behalf of her minor children, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH and WILLIE JAMES SMITH and on behalf of all other mothers of needy, dependent children similarly situated,

Appellees.

MOTION OF THE CHILD WELFARE LEAGUE OF AMERICA, INC. AND THE NATIONAL COUNCIL OF CHURCHES OF CHRIST IN THE U. S. A. FOR LEAVE TO FILE A BRIEF AS *AMICI CURIAE* IN SUPPORT OF THE APPELLEES' POSITION, WITH THE PROPOSED BRIEF ATTACHED

HELEN L. BUTTENWIESER
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1 East 44th Street
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EPHRAIM LONDON
Of Counsel

IN THE

Supreme Court of the United States

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Appellants,

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Appellees.

Motion for Leave to File a Brief *Amici Curiae*

The Child Welfare League of America, Inc. and the National Council of Churches of Christ in the U. S. A. move for leave to file a brief *amici curiae* in this case. The Appellees consent, and the Appellants refused to consent, to the filing of the proposed brief.

This appeal involves the constitutionality of a Regulation adopted by the State of Alabama. The Regulation, as interpreted, denies financial aid to needy children if their mother cohabits "regularly, frequently or continuously" with an able-bodied man. The Regulation applies even if the man does not contribute, and is unable to contribute, to the children's support, and does not live with the mother or the children, and has never entered their home.

The National Council of the Churches of Christ in the U. S. A. is a membership corporation organized under New York law. It represents 34 Protestant and Orthodox Churches in the United States and the churches represented by the Council have a total membership of approximately 42 million people. The Council believes it has the duty to present its position on the issues in this case, which issues so directly and adversely affect the lives and subsistence of children in need.

The Child Welfare League of America, Inc. is a national, non-sectarian federation of 360 child welfare agencies in the United States and Canada. It also is organized under the New York Membership Corporation Law. The League devotes its efforts to the improvement of services for deprived, neglected, dependent children in the United States. It functions by providing leadership and services to child welfare agencies and organizations. The Child Welfare League seeks to file a brief in this case because it considers the Alabama regulation an unconstitutional invasion of basic rights the League is dedicated to protect.

The brief attached does not present the issues in the same way as the Appellees did in their brief to the Court below, and the *Amici* present a related issue not discussed in Appellees' brief—namely, the right of indigent children to be sustained by the government. The existence of that

right is relevant to the disposition of this appeal for the case involves the validity of a Regulation that deprives destitute children of government aid. It is believed that a contribution is made by the *Amici* brief and the Court is respectfully requested to accept and consider it.

Respectfully submitted,

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EPHRAIM LONDON
Of Counsel

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Appellees.

Brief of the Child Welfare League of America, Inc. and the National Council of Churches of Christ in the U. S. A. *Amici Curiae*, Supporting the Position of the Appellees

HELEN L. BUTTENWIESER
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On the Brief

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The Constitutional Provision, Statutes and Regulation Involved

The 14th Amendment to the Constitution of the United States:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Social Security Law, 42 U. S. C. §601:

> §601. Appropriations
>
> For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made avail-

able under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children.

42 U. S. C. §606:

§606. Definitions

When used in this subchapter—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, * * * in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or * * *.

The Regulation:

Pt. I, Ch. II, Subd. V (A) of the Alabama Manual of Public Assistance Administration:

V. *Child Ineligible If There Is a Father or Mother Substitute.*

A. *Father Substitute*: An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant/recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the

child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home. • • •

Statement of the Case

The Appellee, Mrs. Sylvester Smith, is a resident of Selma, Alabama, where she lives with her four children (242).* The father of three of the children died in 1955 (46). The father of the fourth child has been absent for several years and does not contribute to his child's support (46). At the time this action was instituted, the oldest of the four children was 14 and the youngest was 9 (42, 242).

For a period of years before October 1966 Mrs. Smith and her children received financial aid under a public wel-

* Unless otherwise indicated, numbers in parentheses refer to corresponding pages of the Appendix filed in this Court by the Appellees.

fare program administered by the State of Alabama (44, 4). The Alabama program was and is supported by Federal grants made under the Social Security Act (42 U. S. C. §§ 301-1396d) which provides, in part, for Federal appropriations to aid dependent children living at home (42 U. S. C. § 601). A dependent child is defined by the Act as a needy child who has been deprived of parental support because of the death, incapacity or absence of a parent. A child, to fall within the definition, must be living at home with his parent, grandparent or other near relative (42 U. S. C. § 606).

Concededly the Smith children were dependent children within the definition of the Social Security Act (44). Without the moneys received from the Alabama Welfare Department Mrs. Smith and her children did not have enough money to live "in health and decency" (46). In October 1966 Mrs. Smith was notified that she and her children were no longer eligible to receive financial aid (16). The support payments were terminated under the Alabama Regulation set forth at pages 2-3 of this brief (hereafter referred to as the Regulation) because the Alabama Welfare Department had information that Mrs. Smith was having sexual relations during weekends with a Mr. Williams (131, 44). Mr. Williams is married and the father of nine children, eight of whom live with him and his wife (46). Mr. Williams' income was insufficient to support his own family (247). He was not the father of any of Mrs. Smith's children (252), had not contributed in any way to their support, and was unable to do so (46, 247).

It must be stressed that there is no claim that the Smith children were aware of the nature of Mr. Williams' interest in their mother, or that they were exposed to or witnessed

any immoral behavior, or that their home was in any way unsuitable. It is not claimed that any of the welfare payments made to Mrs. Smith were used for any purpose other than for the care and support of the children (See Applts. Brief, p. 6).

The Court below found that approximately 16,000 Alabama children were deprived of financial assistance to which they were otherwise entitled, as a result of Alabama's application of the Regulation (57).

After the welfare payments were stopped, Appellees brought action in the United States District Court to enjoin the enforcement of the Regulation on the ground that it is unconstitutional. A 3-judge court found the Regulation unconstitutional because it deprived Appellees and others of Equal Protection of the laws, in violation of the 14th Amendment to the Constitution. The Court directed the Appellants to reinstate aid to children declared ineligible under the Regulation (59-60).

The Appellants appealed to this Court, and probable jurisdiction was noted January 22, 1968.

Interest of Amici

The National Council of the Churches of Christ in the U. S. A. is a membership corporation organized under New York law. It represents 34 Protestant and Orthodox Churches in the United States and the churches represented by the Council have a total membership of approximately 42 million people. The Council believes it has the duty to present its position on the issues in this case, which issues so directly and adversely affect the lives and subsistence of children in need.

The Child Welfare League of America, Inc. is a national, non-sectarian federation of 360 child welfare agencies in the United States and Canada. It also is organized under the New York Membership Corporation Law. The League devotes its efforts to the improvement of services for deprived, neglected, dependent children in the United States. It functions by providing leadership and services to child welfare agencies and organizations. The Child Welfare League seeks to file a brief in this case because it considers the Alabama regulation an unconstitutional invasion of rights the League is dedicated to protect.

Point I

The Alabama Regulation which deprives destitute children of government support because of their mother's sexual activities, violates the Due Process Clause of the Fourteenth Amendment.

A civilized society, particularly an affluent one such as ours, has the obligation and responsibility to make adequate provision for the support of destitute children. Children in that condition who receive government support are not the recipients of alms. They have, at the least, a right to subsistence.

In *Edwards* v. *California*, 314 U. S. 160, this Court said in recognizing the obligations of both the State and Federal governments to provide support for those in need:

> "Recent years, and particularly the past decade, have been marked by a growing recognition that in an industrial society the task of providing assistance to the needy has ceased to be local in character. *The duty to share the burden*, if not wholly to assume it, has been

> recognized not only by State governments, but by the Federal government as well. The changed attitude is reflected in the Social Security laws under which the Federal and State governments cooperate for the care of the aged, the blind and dependent children" (emphasis ours) (314 U. S. at pp. 174-175).

See also Hans Linde, Constitutional Rights In the Public Sector: Justice Douglas on Liberty In the Welfare State, 40 Wash. L. Rev. 10, 17; Charles A. Reich, Individual Rights and Social Welfare, The Emerging Legal Issues, 74 Yale Law Journal 1245, 1246.

The Constitution recognizes and protects against government invasion such rights as that of a parent to teach his child a foreign language (*Meyer* v. *Nebraska*, 262 U. S. 390, 399), the right of a citizen to pass freely from State to State (*Twining* v. *New Jersey*, 211 U. S. 78, 97), the right to travel abroad (*Aptheker* v. *Secretary of State*, 378 U. S. 500), the right to enter public lands (*United States* v. *Waddell*, 112 U. S. 76), the right to own land (*Oyama* v. *California*, 332 U. S. 633, 640), the right to have children (*Skinner* v. *Oklahoma*, 316 U. S. 535), and to direct their education (*Pierce* v. *Society of Sisters of Holy Names*, 268 U. S. 510), the right to practice one's profession or follow a calling (*Schware* v. *Board of Bar Examiners*, 353 U. S. 232, 238-239; *Wieman* v. *Updegraff*, 344 U. S. 183, 191-192), the right to marry (*Loving* v. *Virginia*, 388 U. S. 1, 12), and the right of marital privacy (*Griswold* v. *Connecticut*, 381 U. S. 479). Clearly so fundamental a right as that of a child whose parents cannot support him, to be sustained by the State, is also within the protection of the Constitution.

In this case, the right of the Smith children to financial help had been recognized by statute. The Federal government granted funds to Alabama (under the Social Security Act) for aid to dependent children, and Alabama undertook a program pursuant to its own statute (Code of Alabama Title 49, Section 17 [14]) to furnish such aid (7, 44-45). As a result, the question here is not only what government must give, but also what it may not take away.*

Even if financial aid to dependent children is deemed a benefit conferred by the government and not a right, the withholding of benefits under an arbitrary regulation which has no reasonable relation to any proper legislative purpose and is "utterly lacking in rational justification" violates the Constitutional requirement of Due Process. *Flemming* v. *Nestor,* 363 U. S. 603, 611; *Nebbia* v. *New York,* 291 U. S. 502, 537; *Meyer* v. *Nebraska,* 262 U. S. 390, 399-403. It will be seen that the Regulation has no relation to any valid legislative purpose.

According to the Appellants the primary purpose of the Regulation limiting the number of dependent children eligible for relief is to conserve the available welfare funds so that those who remain on the rolls will receive larger allowances.** That may be the result of the measure, but it cannot be held the valid objective of a law governing the distribution of welfare funds.*** Obviously the exclusion of

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* See *Barsky* v. *Board of Regents of N. Y.,* 347 U. S. 442, 473.

** Appellant's brief p. 14.

"In applying this Regulation the ADC (aid to dependent children) caseload was reduced. Payments to families who continue to receive the payments have been increased. The caseload per caseworker has been reduced" (Appellants' brief, p. 15).

*** The alleged necessities of the program cannot be held to justify an unconstitutional limitation. *Hoeper* v. *Tax Commission,* 284 U. S. 206, 216-217.

any group from public assistance will increase the amount left for those who remain eligible. But that could not serve as justification for declaring, for example, that all Negroes, or all who do not attend a recognized church, are ineligible for relief.

The second stated purpose of the Regulation is to shift the burden of supporting dependent children from the State to one who may be considered a "substitute father" because he enjoys a relationship akin to that of marriage, with their mother (Appellants' brief, pp. 20-22). The Regulation assumes, as the Court below observed, that "from the mother's alleged sexual relationship the man has assumed the role of father to her children . . . ". The assumption and the supposed aim of the Regulation bear no relation to its provisions, which deny all aid to dependent children whether the "substitute parent" is willing, or is able, or can be required to contribute to their support or has ever lived with the children, or has ever seen them.

Another alleged objective of the Regulation is to reduce the risk of conception of dependent children the State may have to support (Appellants' brief, pp. 14, 28). A State may not adopt a measure to limit the birth rate of poor people. *Skinner* v. *Oklahoma,* 316 U. S. 535. Moreover the Regulation cannot be considered a rational means of achieving that result. The Regulation is confined, according to its terms, to children whose mother cohabits with an "able-bodied man" and, as interpreted by the Appellants, the Regulation is applied only when the sexual relations between the dependent children's mother and an able-bodied man are "regular, frequent, or continuous" * (Appellants'

* The term "continuous" is precise, but has, we assume, very limited application. The terms "frequent" and "regular" are so

brief, pp. 25, 28). There is little likelihood that the alleged objective of the Regulation (to minimize the risk of conception of dependent children) can be realized so long as it does not inhibit cohabitation between indigent women and men who are maimed, blind, or halt and does not affect occasional sexual intercourse between a mother of dependent children and a multitude of men.

Point II

The Regulation is invalid because it denies appellees and others in the same situation the Equal Protection of the laws.

The Equal Protection clause prohibits "discriminating and partial legislation . . . in favor of particular persons as against others in like condition." *Minneapolis & St. L. R. Co.* v. *Beckwith,* 129 U. S. 26, 28-29. The Clause does not require a law to make identical provision for all affected by it, but it does demand where distinctions are made, that they have some valid and reasonable relation to the law's purposes and that there be some rational basis for the discrimination. *Gulf, C. & S. F.R. Co.* v. *Ellis,* 165 U. S.

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vague and general as to permit arbitrary application since each administrator of the Regulation must determine the meaning for himself. (See *Louisiana* v. *United States,* 380 U. S. 145.) The Appellant, Ruben King, one of the drafters of the Regulation, and Lucy K. Locklin and Augusta Wilkinson, County Directors of the Alabama Welfare Department, all agreed that the meaning of the terms varied in each case. They stated that depending on the person to whom it was applied, the term "frequently" might refer to sexual intercourse once a week, once a month or once in two or three months (84, 170, 180-181).

The Appellants contend that the vice of vagueness of the terms "frequent" and "regular" in the Regulation is cured by "consistent interpretation", namely, "application in accordance with the facts of each situation" (Appellants' brief, p. 9).

150, 155; *Smith* v. *Cahoon,* 283 U. S. 553; *Baxtrom* v. *Herold,* 383 U. S. 107, 111; *Rinaldi* v. *Yeager,* 384 U. S. 305, 308-309.

The Court below held, in declaring the Regulation invalid: "It is clear that Alabama, having undertaken to cooperate with the federal government in providing an Aid to Dependent Children program and having accepted federal financial assistance for that purpose, is not now free to bestow the benefits of the program upon some needy children and arbitrarily to deny them to others. There cannot be any picking and choosing of the mothers and children who will be aided if it is done in an irrational or in an arbitrary manner. Some children cannot be classified as eligible and others ineligible without a reasonable basis for distinguishing one class from the other • • • ."

The Alabama Regulation challenged in this case distinguishes between dependent children whose mothers are chaste, and those whose mothers are not, and it denies all welfare payments to the latter group. There is no rational basis for denying relief to dependent children because of their mother's sexual behavior. And the objective of the Social Security Law and of the Alabama Aid to Dependent Children law, both enacted to furnish support for needy children, is obviously not served by the distinction.

In *Collins* v. *State Board of Social Welfare,* 248 Iowa 369, 81 N. W. 2d 4, the Iowa Supreme Court struck down an amendment to a welfare law that limited to $175 the amount that could be given to dependent children residing in one home. As a result of the amendment, dependent children of large families received less per child than those of smaller families. The Court found that the law deprived the children of larger families of Equal Pro-

tection of the laws, for the difference in the treatment of children of larger families did not bear any reasonable relation to the purposes of the law.

The same result was reached in *Harrell* v. *Tobriner*, U. S. Ct. App. D. C., November 7, 1967, 36 USLW 2283. That case involved a law that provided aid to indigent mothers and their children within the District of Columbia only if they lived in the District for at least 12 months. The Court held:

> "If a six-month resident is denied the assistance given to a one-year resident, in circumstances in which each is otherwise within the requirements of the statute, the former is denied the equal protection of the law, for the clearly different treatment has no reasonable relation to the basic legislative purposes. The disqualifying requirement applicable to plaintiffs thus engrafts upon the legislation an invalid provision. The same reasons which led the courts in the Thompson v. Shapiro, 270 F. Supp. 331, and Green v. Dept. of Public Welfare, 270 F. Supp. 173, and pendente lite in the Smith v. Reynolds (USDC EPa 1967), to hold comparable provisions invalid as classifications without a reasonable relation to the purposes of the legislation, apply to our cases. • • • "

The distinction made by the Regulation here under attack certainly bears no greater relevance to the objectives of the welfare law than those held to violate the demands of the Equal Protection Clause in the *Collins* and *Harrell* cases.

As noted in the first point the penalties of the Regulation do not fall equally upon the dependent children of mothers

who cohabit regularly with able-bodied men, and dependent children of mothers who have infrequent sexual relations with many men, or who have sexual intercourse with men who are not able-bodied. As the Court said in *Skinner* v. *Oklahoma,* 316 U. S. 535, referring to a statutory provision for the sterilization of multiple offenders convicted of larceny, but not those convicted of embezzlement:

> "The guaranty of 'equal protection of the laws is a pledge of the protection of equal laws.' Yick Wo v. Hopkins, 118 US 356, 369. When the law lays an unequal hand on those who have committed intrinsically the same quality of offense and sterilizes one and not the other, it has made as invidious a discrimination as if it had selected a particular race or nationality for oppressive treatment. Yick Wo v. Hopkins, supra; Missouri ex rel. Gaines v. Canada, 305 US 337. * * * The equal protection clause would indeed be a formula of empty words if such conspicuously artificial lines could be drawn" (316 US at pp. 541-542).

Conclusion

The Regulation deprives dependent children of subsistence in order to accomplish purposes that are not valid, by means that are arbitrary, discriminatory and "utterly lacking in rational justification." It deprived the Appellees and 16,000 others of fundamental rights and of their statutory rights without due process of law and denied them the Equal Protection of the laws. For the reasons outlined, the judgment of the Court below should be affirmed.

Respectfully submitted,

HELEN L. BUTTENWIESER
Attorney for Amici

EPHRAIM LONDON
Of Counsel

On the Brief

HELEN L. BUTTENWIESER
EPHRAIM LONDON

IN THE

Supreme Court of the United States

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RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County, Department of Pensions and Security, Individually and in their official capacities,

Appellants,

—v.—

MRS. SYLVESTER SMITH, individually, and on behalf of her minor children, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH and WILLIE JAMES SMITH and on behalf of all other mothers of needy, dependent children similarly situated,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* AND BRIEF *AMICI CURIAE* OF THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC., THE NATIONAL OFFICE FOR THE RIGHTS OF THE INDIGENT, AND THE CENTER ON SOCIAL WELFARE POLICY AND LAW

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 949

RUBEN K. KING, Commissioner of the State Department of Pensions and Security, State of Alabama; LURLEEN BURNS WALLACE, Chairman, State Board of Pensions and Security, State of Alabama; JAMES RECORD, MRS. MARY WAITE, WILLIAM M. CLARKE, TEMPLE COLEY, GRANT WHIDDON, MRS. MARY ELLA REAVIS, Members of the State Board of Pensions and Security, State of Alabama; MRS. CLINTON S. WILKINSON, SR., Director, Dallas County, Department of Pensions and Security, Individually and in their official capacities,

Appellants,

—v.—

MRS. SYLVESTER SMITH, individually and on behalf of her minor children, IDA ELIZABETH SMITH, ERNESTINE SMITH, WILLIE LOUIS SMITH and WILLIE JAMES SMITH and on behalf of all other mothers of needy, dependent children similarly situated,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* AND STATEMENT OF INTEREST OF THE *AMICI*

Movants NAACP Legal Defense and Educational Fund, Inc., National Office for the Rights of the Indigent, and Center on Social Welfare Policy and Law respectfully move the Court for permission to file the attached brief *amici curiae*, for the following reasons. The reasons assigned also disclose the interest of the *amici*.

(1) Movant NAACP Legal Defense and Educational Fund, Inc., is a non-profit corporation, incorporated under the laws of the State of New York in 1939. It was formed to assist Negroes to secure their constitutional rights by the prosecution of lawsuits. Its charter declares that its purposes include rendering legal aid gratuitously to Negroes suffering injustice by reason of race who are unable, on account of poverty, to employ legal counsel on their own behalf. The charter was approved by a New York court, authorizing the organization to serve as a legal aid society. The NAACP Legal Defense and Educational Fund, Inc. (LDF), is independent of other organizations and is supported by contributions from the public. For many years its attorneys have represented parties in this Court and the lower courts, and it has participated as *amicus curiae* in this Court and other courts, in cases involving many facets of the law.

(2) A central purpose of the Fund is the legal eradication of practices in our society that bear with discriminatory harshness upon Negroes and upon the poor, deprived, and friendless, who too often are Negroes. In order more effectively to achieve this purpose, the LDF in 1965 established as a separate corporation movant National Office for the Rights of the Indigent (NORI). This organization, whose income is provided initially by a grant from the Ford Foundation, has among its objectives the provision of legal representation to the poor in individual cases and the presentation to appellate courts of arguments for changes and developments in legal doctrine which unjustly affect the poor. Thus NORI is engaging in legal research and litigation (by providing counsel for parties, as *amicus curiae*, or co-counsel with legal aid organizations) in cases in which rules of law may be established or interpreted to provide greater protection for the indigent.

(3) In carrying out this program to establish the legal rights of the poor LDF and NORI attorneys have handled, *inter alia*, cases involving public and private housing,[1] consumer fraud and credit, and a number of cases dealing with rights of welfare recipients. These include actions challenging a Georgia "employable mother" regulation,[2] a Missouri residency requirement,[3] a Mississippi procedure that gives a recipient a fair hearing only *after* benefits have been terminated,[4] and a Maryland regulation that places a fixed upper limit on the amount any family may receive regardless of its size.[5] In addition, LDF and NORI attorneys are assisting or have assisted legal aid and neighborhood legal services groups in similar suits in California, Ohio, and elsewhere.

(4) The Center on Social Welfare Policy and Law is the specialized welfare law resource of the Legal Services Program of the Office of Economic Opportunity. Affiliated with the Schools of Law and Social Work of Columbia University, the Center undertakes research pertaining to the legal rights of welfare beneficiaries and supports OEO-funded legal service programs and other legal organizations such as LDF and NORI through education and assistance in the preparation of important litigation. The Center also maintains the nation's only comprehensive private collection of state public assistance regulations and manuals.

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[1] E.g., *Thorpe* v. *Housing Authority of the City of Durham*, 386 U.S. 670; *Williams* v. *Shaffer*, 385 U.S. 1037.

[2] *Anderson* v. *Burson*, N.D. Ga., C.A. No. 10443.

[3] *Northway* v. *Carter*, D.C. Mo. C.A. No. 67-C-292.

[4] *Williams* v. *Gandy*, N.D. Miss., C.A. No. GC 6728.

[5] *Williams* v. *Dandridge*, D.C. Md., C.A. No. 19250.

(5) The Center has concerned itself with many basic legal issues in the welfare field including residence tests, work requirements, welfare searches, maximum family grants, and various procedural questions. Foremost among these issues have been the substitute-father and man-in-the-house rules in public assistance. The Center has assisted in numerous administrative hearings and court cases involving substitute-father rules as they affect eligibility and computation of need. In February 1966, attorneys of LDF and the Center, filed a complaint with the Secretary of the United States Department of Health, Education, and Welfare, on behalf of LDF and named individuals, seeking to have the substitute father regulations of Georgia and Arkansas, which are similar to Alabama's, declared violative of the Fourteenth Amendment and the Social Security Act. Despite repeated requests addressed to the Secretary for action on the complaint, none has been taken in the two years since its filing. OEO-funded neighborhood legal service programs in Louisiana, Georgia, and the District of Columbia currently have pending in the federal district courts substitute-father cases for which Center attorneys are serving as special counsel. LDF, NORI, and the Center, together with these neighborhood programs and the 247 other federally-funded legal service programs throughout the nation, have a vital interest in presenting to this Court the full range of issues raised and rules affected by this case.

(6) Counsel for the appellees have consented to the filing of a brief *amici curiae* by the movants. The present motion is necessitated because counsel for the appellants have refused consent.

WHEREFORE, movants pray that the attached brief *amici curiae* be permitted to be filed with the Court.

Respectfully submitted,

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BRIEF *AMICI CURIAE*

Summary of Argument

I

The Alabama substitute-father rule here in question is but one of a variety of similar rules used by a minority

of states. Indeed, during the course of this litigation, Alabama has employed two other versions of the rule. The regulations restrict eligibility of needy dependent children for benefits under Title IV of the Social Security Act. Although they vary, these rules share a common denominator: a definition of the word "parent" to include men who are not in fact natural or adoptive parents, who have no legal responsibility to support the children in the family, and who have not in fact assumed the responsibility to give support. Some rules require that such a man live in the home, either as a stepfather or otherwise; others require only that there be some kind of social or sexual relationship between the man and the mother of the children; and still others, in addition to one or both of the above, refuse benefits if the man has assumed an undefined "father-role" towards the children. It is of the utmost importance to all needy children that this Court clarify the status of all forms of substitute-father rules.

II

Regulations, such as Alabama's and other states', that define "parent" for ADC eligibility to include persons who do not have a legal duty to support children in a family are in conflict with the intent and purpose of Title IV of the Social Security Act. Under the Act children who are the intended beneficiaries of its provisions are entitled to its benefits. No such eligible persons may be excluded from those benefits by the states through conditions at variance with the statute's purpose. It is clear from legislative history, the context of the Act, and the interpretation given it by HEW that all needy children who are deprived of the financial support of their natural or adoptive parent or a stepparent legally responsible for financial support were intended to be eligible for benefits. Thus, all state rules which define as "parents" persons who are not so

legally responsible and deny aid on that basis violate the Act because they bear no rational relation to financial need or deprivation of parental support.

III

The Alabama regulation, as well as others that similarly define "parent," violates the Equal Protection Clause of the Fourteenth Amendment on two tests. First, such a definition bears no reasonable relation to the purpose of Title IV of the Social Security Act or any permissible state use of the ADC program. None of the rationales which can be offered in support of the rule are sufficient to justify it in light of the Act's clear purpose. Second, in light of the situation of the appellees and their class, needy children who are otherwise helpless and wholly without the means to live, special scrutiny should be given to the classifications created by substitute-father rules. This case presents a unique opportunity for this Court to provide guidance which will guarantee these children the protection intended by Congress.

ARGUMENT

It Is of Utmost Importance That This Court Hold in This Case That the Social Security Act and the Equal Protection Clause Prohibit State Rules Which Deny ADC to Needy Children by Defining as a "Parent" Any Person Not Legally Obligated to Support Those Children.

I.

The Alabama Substitute-Father Rule at Issue Here Is Only One of Many Forms of Substitute-Father Rule. A Variety of Other Definitions of "Parent," All Unrelated to Legal Responsibility for Financial Support, Are in Force in Many States and Have Been Employed by Alabama.

The question which underlies the primary statutory and equal protection arguments in this case is: who are the "parent[s]" (or, more particularly, the fathers) referred to in §406(a) of Title IV of the Social Security Act (42 U.S.C. §606(a)), whose death, absence or incapacity entitles needy children to Aid to Dependent Children benefits?

We show in Point II that Congress intended the term "parent" to mean only a natural or adoptive father, or a stepfather who is under a legal duty to support the children. Not only is such a definition the one clearly intended by Congress; any other definition frustrates the purpose of the ADC program and, as shown in Point III, results in an unjustifiable classification excluding from ADC benefits needy children who in fact are deprived of their fathers' support. We think it appropriate at this initial point in the Brief to review the varied and conflicting definitions of "father" used in a substantial minority of juris-

dictions in this country, particularly since during the course of this litigation the Appellant Alabama welfare officials have employed a number of these definitions. Such a review is of critical importance in this case so that this court may undertake its deliberations cognizant of the subtle variations which can be incorporated into the substitute-father rule.

The court below considered "economic factors" and not moral conduct or sexual relationships fundamental to proper definition of "parent" under Title IV. 277 F. Supp. 31, 39. Appellant Alabama argues, however, that its substitute-father regulation, looking towards sexual relationships with the mother as the definitive element of fatherhood, is not based upon moral judgments but "is a method of utilizing economic resources available" from substitute-fathers. Appellant's Brief, p. 11. Appellees stress that, under the Alabama regulation, the substitute-father need have no relationship to the children, need not live in the house or aid or guide the children in any way—or even know the children. The United States, in an "amicus letter" to the court below, sought to distinguish between a "suitable home" rule, which looks to the moral behavior of the mother, and a "true" substitute-father rule, wherein the man has some sort of undefined relation with the children.[1]

Subsequent to the decision of the court below, Appellants have successively adopted two different definitions of "father." See Appendix B, *infra*, pp. 7a-8a. The rule first adopted by Alabama would define a "substitute father" as an unrelated male who is living in the house and acts as a father to the children in an unspecified way, regardless of whether that person is legally bound to support the children. Under the other, more recent Alabama rule

[1] Exhibit K, appended to Appellants' Brief in this Court.

a man not legally married to the mother is not treated as a substitute father; the regulation does, however, disqualify children if they acquire a stepfather, even though such a stepfather owes the children no duty of support, may not contribute to their support, and may not be financially able to so contribute.

The dispute over what constitutes fatherhood within the meaning of Title IV is by no means confined to Alabama. Some states have adopted rules essentially similar to that of Alabama. A number of states deem the critical element to be whether the unrelated male is physically present within the home. Other states reject the latter element as critical and hold that the "kindness" or other non-economic manifestations of fatherhood may be determinative. Still other states require both presence in the home and some unspecified, undefined (except by the individual welfare worker) incident of fatherhood to be exhibited. Finally, several states make a legal marriage dispositive of the "substitute-father" question despite the fact that the marriage does not render the stepparent liable for support in most of these jurisdictions.

Whatever the variations in scope and language, these "substitute-father" rules have one crucial common characteristic. Each denies essential financial assistance to needy children only because of a man who is under no legal obligation to provide financial support for those children. The text of the relevant rules is attached to this Brief in Appendix C. Appendix D indicates which states treat a stepfather as a parent for purposes of ADC but do not require him to support his stepchildren. Below, we briefly review the principal variants of substitute-father rules in addition to those adopted by Alabama. We should perhaps emphasize that the substitute-father rules to which *amici* refer do not exist in the majority of juris-

dictions. Most states define "father," for purposes of ADC eligibility as do *amici:* as a natural or adoptive father or a stepfather who has a legal duty of support.

Arkansas, Georgia and Louisiana: "Father" is a man who has a sexual relationship with the mother, whether he is living in the home or not.

Arkansas, Georgia and Louisiana, like Alabama, make the sexual relationship between the mother and an unrelated man the critical element in determining whether the children are deprived of their father's support due to death or absence from the home. The concern in Arkansas is with whether the mother affords "the privileges of a husband" to a man. Evidence of such a relationship includes whether there have been "frequent visits" by the man to the house of the mother or "frequent appearances of the man and mother together in public." (The full text of this rule is set out in Appendix C, pp. 11a-12a.) In Georgia, a "substitute father" may be a man, "married or single . . . [who] visits frequently for the purpose of living or cohabiting with the applicant." (App. C, pp. 15a-16a.) Practice under the Georgia rule is illustrated by the following case description from an HEW report:

> An application was rejected for the third time in three months because the mother "had not proved there is no substitute father." Proof of the death of the father of two children had been secured. The mother brought a receipt showing that she had filed a warrant against the father of the other child. A medical statement showed that she was not able to work. According to the record, a man whom she said was a roomer lived in the home and paid $4 a week room rent. Prior to the last rejection, the mother stated that this former roomer had moved. No efforts were made to secure proof that he was actually gone or to tell the appli-

> cant how she could prove this in order to clear her eligibility. Several letters from the mother indicated that the family was in serious need, and that a very sick child required hospitalization. No response was recorded.[2]

Louisiana, using the term "nonlegal marital union" in lieu of "substitute parent," presumes that a "nonlegal union" exists (and hence denies aid), *inter alia,* if:

> a man who is legally married and living with his legal family is visiting an ADC mother in her home or meeting her elsewhere. . . . (*Id.,* p. 24a; full text at 19a-27a.)

Recently, preliminary injunctions against both the Georgia and Louisiana substitute-father regulations have been issued by three-judge Federal Courts. *Roussaw* v. *Burson* (M.D., Georgia, C.A. No. 2323 (March 22, 1968)); *Griffin* v. *Bonin* (W.D. La., C.A. No. 13,521 (March 21, 1968)). These cases await the outcome of this appeal.

Indiana and Mississippi: A "substitute father" is a man who performs a "father-role" to the children; no definition of "father-role" is offered.

Indiana's substitute-father rule is concerned with unrelated males with regard to whom "there is reason to believe this man is living in the home with the mother and the children, *partially* assuming the role of husband and father." (*Id.,* pp. 16a-18a.) (Emphasis added.) No further clues are offered as to what this partial assumption of the role might be. Mississippi's rule, in contrast, does

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[2] HEW, Social Security Administration, Bureau of Public Assistance, "Report of Administrative Review Findings on the Application Process for Georgia" (1957), quoted in Bell, AID TO DEPENDENT CHILDREN 90 (1965).

not require a "father role" when the unrelated man lives in the home, but does require "the father role" when the unrelated man does not live in the home. Like Indiana, Mississippi gives little indication as to what "the father-role" is. (*Id.*, p. 29a.)

District of Columbia: Guides to the "father-role."

In the District of Columbia, a sexual relationship with the mother is not enough to dub a man the substitute father. In the home or out, the question is whether his "relationship to the family is that of husband and father." (*Id.*, pp. 12a-15a.) In determining this question, the D.C. rule offers guidance to the welfare worker in the form of "some facts to be considered in determining that the man (not living in the home) has a relationship with the children similar to that of father and child." These facts include whether the man:

> Visits the home to see the children; . . . Donates gifts to the children; . . . Is the father figure in the home; . . . Acts "at home" with the children by dressing, feeding, carrying or fondling them; . . . Takes the children on walks, excursions and the like; . . . Shows concern about the health of the children and uses health facilities in the community to restore the health of the children; . . . Shows interest in the educational progress of the children. . . . (*Id.*, p. 14a.)

Texas: The man must be present in the home, but the burden of proof rests with the mother.

Texas includes as a father any man "with whom the mother . . . is maintaining a marital relationship or maintaining a home together." (App. C, p. 35a.) However, as in Alabama and other states, if there have been "contin-

uing pregnancies" or allegations that the mother has been "cohabiting with a man", the mother must establish the absence of a substitute father. (*Id.*, p. 36a.) Until the recent decision in *Rios* v. *Hackney* (N.D. Tex. C.A. No. 3-1852, Nov. 30, 1967), a mother accused of cohabitation could not even confront her accuser at an administrative "fair hearing".

Michigan and New Hampshire: Extramarital Sexual Relations Disqualify; Legalization by Marriage Leads to Conflicting Treatment.

Michigan's rule requires an ADC mother, who has "a continuing relationship" with a "partner . . . exercising the role of parent to the children or the rights of a spouse to the client," to marry the "partner" in 30 days or lose aid. (App. C, pp. 27a-28a.) If she marries, she may then be eligible for aid even though a stepparent is in the home. If there is legal impediment to marriage, the client (or partner) must institute legal action in 6 months.

New Hampshire's rule states: ". . . an unrelated male is not permitted to live with an ADC family, whether in their home or his." (*Id.*, p. 30a.) With refreshing candor, this rule concedes it is based on concern for "moral well-being" and "community criticism and censure." (*Id.*, p. 31a.) In contrast to Michigan, however, in New Hampshire if the unrelated male marries the woman, ADC eligibility is denied on the ground that a stepfather is present.[3]

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[3] This was stated unequivocably by George E. Murphy, Director, Division of Welfare, New Hampshire Department of Health and Welfare, in a letter to *amicus* Center, Nov. 30, 1967. According to the same letter, New Hampshire law holds a stepfather responsible for support only of "the children for whom he has assumed a parental relationship."

New Mexico and Pennsylvania: Conflicting rules on whether an unrelated man living in the home is a "substitute father" and on whether a stepparent is such a "father."

New Mexico defines as a father the natural father and "any man living with the mother and child with the *exclusion of the step-father*" of the child. (*Id.*, p. 32a.) (Emphasis in the original.) Pennsylvania, on the other hand, does not define an unrelated male in the house as a father for purposes of eligibility, but it disqualifies children with stepfathers even though no support duty is imposed upon stepfathers by the mere fact of marriage and living in the home. (See, App. D, p. 41a.)

The conflict and variety of the substitute-father rules resist sensible analysis. North Carolina, for example, finds needy children ineligible for ADC if an unrelated man lives in the home and one of the children is illegitimate. If all of the children are legitimate, however, they are eligible despite the presence of the man. (App. C, p. 32a-33a.) Other substitute-father rules, some of which are equally difficult to understand, are set out in Appendix C.

Whatever may be the bizarre intricacies of each substitute-father rule, they all share one common characteristic crucial in *amici's* view: The "substitute father" may be someone other than a natural or adoptive father or a stepfather who has a legal duty to support the children, or who has in fact accepted full responsibility for their support. In the remainder of this Brief, *amici* seek to demonstrate that this characteristic places all such rules in conflict with the Social Security Act and the Equal Protection Clause.

II.

Any Definition of "Parent" for Purposes of ADC Eligibility Which Is Not Limited to Persons Under a Legal Duty to Provide Financial Support Conflicts With the Purposes of Title IV of the Social Security Act.

A. *Title IV Creates a Right to Aid for All Eligible Children and Prohibits Eligibility Requirements Not Reasonably Related to the Purpose of the Title.*

Title IV of the Social Security Act authorizes federal financial assistance only to those state programs of Aid to Dependent Children which fit the definitions and meet the conditions there set forth. Several of these provisions create a "statutory entitlement" (to use the term of the court below, 277 F. Supp. at 34 and 38) or, in other words, a right of eligible persons to receive assistance.

The Social Security Act, Section 402(a)(10), 42 U.S.C. §602(a)(10),[4] requires that:

> . . . aid to families with dependent children *shall be furnished* with reasonable promptness to all eligible individuals: . . . (Emphasis added.)

This statutory command creates not simply a duty for welfare agencies to grant assistance to all eligible individuals, but a correlative *right* of such individuals to receive aid. Thus, the United States Department of Health, Education, and Welfare (HEW) has stated that this provision:

> removes from the discretion of the [state or local] administration the right to exclude persons falling within the scope of the program, because all persons

[4] This section was numbered as §402(a)(9), 42 U.S.C. 602(a)(9), prior to the enactment of the 1967 Amendments to Title IV.

> meeting the eligibility qualifications are equal before the law and have a right to receive assistance under a uniform application of law. The right of eligible persons to receive assistance is also inherent in [other] requirements of the Social Security Act.[5]

Among the other requirements of the Act which establish the right of eligible claimants to public assistance is the requirement that a "fair hearing [be granted] to any individual whose claim for aid . . . . is denied or not acted upon with reasonable promptness." Social Security Act, §402(a)(4), 42 USCA §602(a)(4). In such a hearing the welfare department must establish that the applicant's exclusion is not arbitrary. "Fair hearing" itself implies a requirement of fair results. See, *Morgan* v. *United States*, 298 U.S. 468; *N.L.R.B.* v. *Express Publishing Co.*, 312 U.S. 426.

Further, not only must all eligible persons receive benefits, but the federally supported state program must guarantee that "the benefits of the program be equally available to all eligible persons," so that eligible persons in like circumstances of need receive equal amounts of benefits. HEW, Handbook of Public Assistance Administration, Pt. II, §4300 (1962). The Act also requires that,

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[5] This statement appeared in HEW's Handbook of Public Assistance Administration, Pt. IV, §2321, as an explanation of the federal statutory and administrative requirements designed to protect the right of eligible persons to receive assistance. This Handbook, which will be cited throughout the Brief, is provided to state welfare agencies as "the official medium for issuance of interpretations and instructions concerning requirements of the public assistance Titles of the Social Security Act" (Introduction, p. i.). In February 1968, HEW revised the Handbook for purposes of publication in the Federal Register. While explanatory language such as that quoted above was deleted as unnecessary, the administrative requirements to protect the rights of eligible persons were strengthened. Transmittal 139, Handbook of Public Assistance Administration.

except in specially defined circumstances, the benefits given be in the form of "money payments" so as to guarantee that recipients, not welfare agencies, will have the right to determine how the money is best spent. Social Security Act, §406(b), 42 USCA §606(b).[6]

Of course, the right of all eligible persons to receive ADC assistance would be quickly and easily nullified if states could, consistently with the statute, create eligibility conditions at variance with the statutory purpose. For this reason, HEW has long held that state eligibility conditions must be consistent with the statutory purpose, see *Welfare's "Condition X,"* 76 Yale L.J. 1222 (1967), and recently included that requirement in its official regulations:

> A State Plan for OAA, AFDC, AB, APTD, or AABD must provide that: . . . The policies and procedures for taking applications and determining eligibility for assistance or other services will be consistent with program objectives, will respect the rights of individuals under the United States Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State Laws, and will not result in practices that violate the individual's privacy or personal dignity, or harrass him, or violate his constitutional rights. HEW, Handbook of Public Assistance Administration, Pt. IV, §2200 (1967).

HEW has applied this requirement to prohibit, *inter alia*, eligibility criteria which exclude illegitimate children,

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[6] "The provision that assistance shall be in the form of money payments is one of several provisions in the act designed to carry out the basic principle that assistance comes to needy persons as a right. The right carries with it the individual's freedom to manage his own affairs. . . ." HEW, Handbook of Public Assistance Administration, Pt. IV, §5120 (1947).

Indians, or—in the case of the optional program of ADC for families with an unemployed parent (Social Security Act, §407, 42 U.S.C. §607)—children of domestic and agricultural workers.[7] It has also prohibited on this basis state welfare rules which treat recipients differently because of the source of their income and rules which assume income or jobs which are not, in fact, available. HEW's most notable application of the requirement of consistency with the purposes of the Act is its "Flemming Ruling," which prohibited, as bearing "no just relationship to the ADC program," "suitable home" rules that deny ADC to an otherwise eligible child "because of the behavior of his parent or other relative."[8] The amicus letter submitted below on behalf of the United States conceded that the form of the substitute-father eligibility rule used in Alabama conflicts with the purposes of Title IV because it is *de facto* a "suitable home" rule.[9] We will show below that the purposes of Title IV are contravened by *all* forms of substitute-father rule.

B. *Legislative History, Statutory Context, and Administrative Interpretation Make it Clear that Title IV Was Intended to Aid All Needy Children Deprived of the Financial Support of a "Parent" Legally Obligated to Provide that Support.*

Section 406(a) of the Social Security Act and Alabama's implementing legislation are intended to aid "needy dependent children," children "deprived of parental support

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[7] These and other rulings, as well as the statutory and constitutional basis for this requirement, are set forth in *Welfare's "Condition X," supra.* See also, with regard to the illegitimacy ruling: HEW, *Illegitimacy and Its Impact on the Aid to Dependent Children Program* 54 (1960).

[8] The full text of the Flemming Ruling, as well as related regulatory material, is set forth in the opinion below, 277 F. Supp. at 35-36, and in Appellees' Brief herein.

[9] Appellants' Brief, Exhibit K.

or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. . . ." [10] "Parent" in this definition refers only to a needy child's natural or adoptive parent or a stepparent legally responsible for the child's financial support, as is made clear in the legislative history and administrative interpretation of Section 406(a) and in the use of the term "parent" elsewhere in Title IV.

1. The Legislative History of Section 406(a) and the Congressional Concern With "Breadwinners."

The legislative history on the meaning of the term "parent" as it is used in Section 406(a) is not lengthy. What does exist, however, is very much to the point. The Committee on Economic Security, which drafted the initial proposal for the Social Security Act, emphasized in its report to the President that its various programs were designed to create safeguards against "loss of earnings." [11] Large numbers of young children were deprived of "a father's support" and needed "financial aid"; special attention had to be given to "the fatherless and other 'young' families without a breadwinner." Fatherless families needed a special program because unemployment compensation, work relief and other public and private job assurance programs for male breadwinners could not help them. Only public aid could replace the lost financial

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[10] The legislation in Alabama, implementing Title IV of the Social Security Act, states that "dependent child is defined for purposes of ADC in Alabama as it is defined in the Federal Act." Code of Alabama, Title 49, §17(14).

[11] The Committee on Economic Security, consisting of Frances E. Perkins, H. Morgenthau, Jr., Homer Cummings, Henry A. Wallace and Harry Hopkins was created by Executive order of President Roosevelt and charged with drafting recommendations for economic security. President Roosevelt endorsed its recommendations and sent them to Congress in a Message dated January 17, 1935. See H.R. Doc. No. 81, 74th Cong., 1st Sess. (1935).

support of the missing breadwinner. (H.R. Doc. No. 81, 74th Cong., 1st Sess. (1935) pp. 2, 5, 35.)

The initial House version of the Social Security Act reiterated the viewpoint of the Committee on Economic Security. It emphasized that "the core of any social plan must be the child," but did not specifically limit the definition of "dependent child" to those who lacked a parent. H.R. REP. No. 615, 74th Cong., 1st Sess. 9-10, 24 (1935). The Senate Committee on Finance, however, confined the definition to those children deprived of a parent's support or care "because a parent of the children has died, or is continuously away from home, or is unable, due to physical incapacity, to provide such support or care"; the Senate Committee report also stressed that it was the lack of "a breadwinner" in the family which prompted the concern for Title IV.[12] S.REP. No. 628, 74th Cong., 1st

[12] Two relevant observations ought to be made: (1) The Senate Committee, and ultimately Congress, provided separate legislation for families without "breadwinners" because it felt families whose fathers were home would be provided for through other programs: "Many of the children included in relief families present no other problem than that of providing work for the breadwinner of the family. These children will be benefited through the work relief program and still more through the revival of private industry. But there are large numbers of children in relief families who will not be benefited through work programs or the revival of industry". S. REP. No. 628, p. 17 (1935). Children whose so-called "fathers" have no legal duty of support and who are not given support by them on a voluntary basis, one might note, would hardly be benefited by a work relief program these "substitute fathers" engaged in. (2) The term "support"—meaning financial aid—was used throughout the legislative history to refer primarily to support from fathers. *Ibid.* A child who was *supported by his mother*, though he lacked "care" from either parent, was also defined as dependent: "Thus if a baby's father were an imbecile, unable even to care for the baby at home, the baby would be a 'dependent child' even though it had a mother who had a job, for the baby would be without normal parental care". *Id.*, 36. The notion was to allow the mother to give her "care" and make up for the lack of the father's support with financial aid. H.R. Doc. No. 81, 74th Cong., 1st Sess. (1935) p. 2. "Care" from an unrelated male friend of the mother, in the form of emotive kindness or interest, minus financial support, was hardly the Congressional concern.

Sess. 36, 17 (1935). Discussion on the floor of Congress also emphasized the need to replace the earnings of a missing "breadwinner". Representative Doughton, in introducing the proposed bill on the floor of the House of Representatives, emphasized the need to aid those families "where there is no breadwinner" so that young mothers could "care" for their children. 79 CONG. REC. 5476, 74th Cong., 1st Sess. (1935).

Could Congress have intended that a person who was not the natural father of the child, lacked any legal duty of support and was not giving support, would fall within the definition of "breadwinner"? Surely not. We submit that the language of §406(a), when read in the context of the underlying legislative history, plainly reveals a purpose to relieve need by making assistance available to children deprived of the financial support of their father. To deprive children of assistance because of the presence of a man who neither owes them a legal duty of support, nor is actually giving support, is clearly inconsistent with the broad and generous purposes underlying Title IV. Whether the man is engaged in sexual relations with their mother, or displaying kindness to or interest in the children, is totally irrelevant to Title IV. We submit that no person should be irrebutably regarded as a parent within the meaning of §406(a) unless there is the assurance of financial support provided by the legal obligations imposed on natural and adoptive parents, and in some states and circumstances, stepparents.

This construction is supported both by common usage and administrative practice. The centrality of financial support to the notion of a "breadwinner," so important in the legislative history, is made plain in WEBSTER'S: a "breadwinner" is "a person who supports his dependents by his earnings." (WEBSTER, NEW WORLD DICTIONARY (College Ed.

1956). Likewise, BLACK, LAW DICTIONARY (4th ed., 1957) defines parent as "the lawful father or mother of a person [or] one who procreates, begets or brings forth offspring," that is, a person bound to support the child.

This is why the United States Department of Health, Education and Welfare, in enumerating the children who have been "deprived of parental support or care" as intended by Congress, has included a child living with his natural mother and his stepfather where the latter has no legal duty of support. Thus, HEW has stated with regard to stepparents:

> "A child living in the home of a stepparent who is not required by State law to assume a parental role, may be included [in the ADC program] on the ground that he lacks the support or care of the natural parent who is dead or absent. In the absence of legal obligation to assume a parental role, a stepparent is no more of a 'parent' than any other person acting in loco parentis. *In these situations, the only safeguard to the child's right to assistance is his eligibility under the condition of being deprived of the support or care of the natural parent.* In States in which the stepparent is required to assume a parental role, a child may be deprived of support or care if the stepparent is dead, absent or incapacitated." HEW, Handbook of Public Assistance Administration, Pt. IV, §3412 (1946) (set out in full in App. A, *infra*, pp. 1a-3a.)
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> (Emphasis added.)

In discussing stepparents, HEW properly distinguishes between those stepparents who are required to support the children and those who are not. Its discussion of adoptive parents—recognizing that upon adoption it is the adoptive and not the natural parent who bears legal

responsibility for support—makes the same distinction: death, absence or incapacity of the natural parent does not qualify the child as "deprived of parental support"; death, absence or incapacity of the adoptive parent does. The legal obligation of support is the key.

As we shall show below, HEW has been even more clear in setting forth the intended meaning for "parent" in the closely related Section 406(b). Initially, however, we consider below the implications of Section 402(a)(11),[13] which also uses the term "parent".

2. The Meaning of the Word "Parent" as It Is Used Elsewhere in Title IV of the Social Security Act.

It is a standard and sensible rule of statutory construction that words and terms used within the same statute (and same subchapter of a statute) will be construed as having the same meaning unless a contrary intent is clearly indicated by the legislature. The word "parent" is used in sections of Title IV other than §406(a) in a manner which can only denote a parent with the legal duty of support.

Section 402(a)(11), requires that a state plan must:

> effective July 1, 1952, provide for prompt notice to appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect of a child who has been deserted or abandoned by a parent.

Obviously, Congress did not intend that a "parent" who has no legal duties of support be referred to law enforcement officials, for the very purpose of such referrals is

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[13] Formerly §402(a)(10), prior to the 1967 amendments to the Social Security Act.

to institute non-support proceedings. See, HEW, Handbook of Public Assistance Administration, Pt. IV, §§8100-8149 (1952).

Section 402(a)(11), aside from being in the same title as Section 406(a), has an intimate relationship with Section 406(a). The "parent" who makes a child eligible for ADC by depriving him of parental support due to desertion or abandonment under §406(a) is surely the *same* parent who is to be reported to appropriate law enforcement officials for desertion or abandonment under §402(a)(11). These are, of course, in both instances, parents who are legally responsible to the child.[14] But, under the various substitute-parent policies, *none* of the "substitute parents" who desert their "children" are reported because, of course, they are not legally responsible for child support at all. Nor is there any state which reports "step-

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[14] Alabama's criminal statutes, as well as its civil law, requires "fathers" to support their "children". Stepfathers who are not the legal custodians of the child, and unrelated males regardless of their sexual activities, are not "fathers" required to give support under such statutes. Code of Ala., Title 34, §§89-90. Stepfathers who have not taken the stepchildren into their home, treated them as members of their own families and demonstrated an intent to voluntarily assume the relation of "a parent", have no civil support obligations. *Englehardt* v. *Yung's Heirs*, 76 Ala. 534 (1884); *Chandler* v. *Whatley*, 238 Ala. 206, 189 So. 751 (1939); *Nicholas* v. *State*, 32 Ala. App. 574, 28 So.2d 422 (1946). Obviously unrelated males have no civil support obligations of a parent. See App. D for other states.

It is also noteworthy that the only "parent" from whose estate a child can inherit under the law of intestate succession and for whose wrongful death he can recover damages is his natural or adoptive parent. On intestate succession see *Williams* v. *Witherspoon*, 171 Ala. 559, 55 So. 132 (1911); *Franklin* v. *White*, 263 Ala. 223, 82 So.2d 247 (1955); Code of Ala., Tit. 27, §§5, 6; Atkinson, HANDBOOK OF THE LAW OF WILLS §18 (2d ed. 1953). On recovery for wrongful death see: Code of Alabama, Tit. 7, §123; Speiser, RECOVERY FOR WRONGFUL DEATH §10:8 (1967). Also, a stepchild can recover workman's compensation benefits only if he was actually dependent upon his stepfather for support. Code of Alabama, Tit. 26 §262 (b); 2 Larson, *Workman's Compensation* §63 (1961).

fathers" to the "appropriate law officials" except where those stepfathers are legally responsible for support.[15]

Also intimately related to Section 406(a) is Section 406(b), which authorizes federal matching for money payments to, *inter alia*:

> . . . the relative with whom any dependent child is living (and the spouse of such relative if living with him *and if such relative is the child's parent* and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under Section 407 of this Title. . .). (Emphasis added.)

In other words, if a child is eligible for ADC because one parent is dead, incapacitated, absent from the home or unemployed, and the child is living with the other parent, the federal government will match money payments not only for the needs of the child and the parent he is living with, but also for the spouse of the "parent" he is living with. HEW has formally interpreted the term "parent" as used in this section as meaning only "the natural or adoptive parent," and "spouse" as meaning only "the legal spouse." HEW, Handbook of Public Assistance Administration, Pt. V, §3320 (1963).[16]

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[15] HEW directs states to give notice regarding only those persons "who, under state laws, are defined as parents . . . for the support of minor children. . . ." HEW, Handbook of Public Assistance Administration, Pt. IV, §8131(2) (1952). Appellant Alabama's own welfare regulations state: "Report parents who are legally responsible under Alabama law. These are the *natural* or *adoptive* parents of a child. A natural parent includes the father of a child born out of wedlock, if paternity has been *legally* established. It does not apply to a stepparent." Ala. Manual of Public Asst. Adm., Pt. I, Ch. II, p. 36. (Emphasis in original.)

[16] The relevant portion of Section 3320 reads:

> In AFDC, the recipient count for a family may include all eligible children, plus the eligible relative with whom such children are living. Effective October 1, 1962, when at least one of the children in

Thus, the federal agency charged with the duty of administering Title IV has in §§406(b) and 402(a)(11), both closely related to §406(a), adopted a construction of parent which is limited to persons owing a legally enforceable duty of support to the child in question. This is also the only definition of parent consistent with common usage and legislative history. It is, without doubt, the meaning of "parent" under §406(a). The only "parental support" a child need be denied to be within the purpose of Title IV is the support of a true parent, one who caused his birth, legally adopted him, or is otherwise legally responsible for his support.

C. *The Purpose of Title IV is Contravened by ADC Eligibility Rules which Treat as a "Parent" Persons Not Legally Responsible for Financial Support.*

The purpose of Aid to Dependent Children programs is to provide financial assistance for children who are needy and deprived of the financial support of a parent legally responsible to provide that support. By its very nature, however, a substitute-father rule ignores both financial need and parental support.

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a family is eligible due to the unemployment or incapacity of his own parent in the home, the recipient count may include all eligible children and two eligible relatives with whom the children are living, if their needs were included and they are married to each other. *In the context of deprivation by reason of incapacity or unemployment, the term "parent" means the natural or adoptive parent. A step-parent can be counted as the second eligible adult recipient only when he is the legal spouse of the child's own parent.* (Emphasis added.)

The full text of the regulation is set out in Appendix A, p. 4a.

It should be noted that the construction of parent accepted by HEW for purposes of §406(b) is in one respect even narrower than the construction argued for by *amici* in that it does not include stepparents even where these are liable for support. For present purposes we may pass the validity of this limitation, it being important only that such federal administrative construction provides no basis for a definition which includes persons not legally obligated to support.

Children who are excluded from aid under a substitute-father rule are at least as needy as those who are not excluded. If a child were not in financial need after consideration of all his available resources, including contributions from the substitute father (if any), he would be ineligible without regard to the substitute-father rule, and we do not contend otherwise. Appellants' Brief seriously confuses the eligibility issue of "need" with the eligibility issue of "deprivation of parental support." It is in connection with this confusion, that appellants misuse and misinterpret Lewis and Levy, *Family Law and Welfare Policies: The Case for 'Dual Systems'*, 54 Calif. L. Rev. 748 (1966). Lewis and Levy do *not* argue that stepfathers and "unrelated men in the house" should be defined as "parents" so as to render needy children ineligible for ADC on the ground that they are not "deprived of parent support." Their argument is that the *income* of stepfathers and unrelated "marital" partners in the house should be considered in determining "need," on the inference that such income will, in part, be made available to the children.[17] But a State's authority to consider all

[17] HEW has prohibited even this inference by ruling that state welfare agencies, for purposes of determining "need," may not assume receipt of income that is not actually available to the children. "Effective July 1, 1967, . . . the State plan must provide that only income and resources that are, in fact, available to an applicant or recipient for current use on a regular basis will be taken into consideration in determining need and the amount of payment." HEW, Handbook of Public Assistance Administration, Pt. IV, §3131(7). Partly upon the basis of this regulation, a federal court suit was instituted in 1967 seeking a declaration that California welfare regulations which computed income of stepfathers and "men in the house" regardless of the availability of such income to the family, contravened the Social Security Act. Thereafter California amended its regulations to declare that "to be considered in determining the AFDC aid payment, income must, in fact, be currently available to needy members of the family in meeting their needs during the budget period." Public Social Service Manual, §44-101, item 17. On the basis of this change, the case was declared moot. *McPherson* v. *California*, N.D. Cal., C.A. No. 46759 (June 29, 1967).

The constitutional basis for prohibiting assumed receipt of income is set forth in *Welfare's "Condition X," supra* at 1231. That Note con-

money a child actually receives from his "substitute father," in order to determine whether that child has financial need, is in no way at issue here. The difference in outcome between such consideration of *income* and "substitute-father" rules which bar eligibility because of "parental" *presence* is significant. Under the first rule, a stepfather or other man with no income would not affect eligibility at all; and children with a stepfather with less income than the family needs to meet the welfare agency's minimum financial standards for such a family would still be eligible for supplementary ADC grants.

No one disputes the desperate financial need of the thousands of children denied aid under the various substitute-father rules. These children also are no less deprived of parental support than children who remain eligible under substitute-father rules. Their actual father, the man legally obligated to support them, is dead or has deserted. In his place the substitute-father regulations have introduced a new type of father—the "substitute father." The relevant attribute of this "substitute father" is that he does not have any legally imposed or voluntarily assumed duties and responsibilities to the children. He has not adopted the children. He does not have custody of them. He is not required under law to support

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cludes, on the basis of the due process test set forth in *Mobile, J. & K.C. R. Co.* v. *Turnipseed*, 219 U.S. 35, and *Heiner* v. *Donnan*, 285 U.S. 312, that:

> The substitute father rule . . . violates due process for two reasons. First, it creates an arbitrary presumption; there is no *a priori* reason to assume that a man acting as surrogate husband must also be acting as surrogate father to children he has no legal duty to support. . . . Second, even if experience shows that the presumption is not arbitrary, it still fails because the applicant may not disprove the dispositive fact presumed in her case; although the mother might establish non-support of her children, she still loses her AFDC payments because she is permitted to rebut only the fact of illegal relationship and nothing more. Note, *Welfare's "Condition X,"* 76 Yale L.J. 1222, 1231 (1967).

them. And the regulations call for no evidence that he has voluntarily assumed the legal support responsibilities of a true parent.[18] No rule which denies essential financial assistance only because of such a man can be consistent with the purposes of Title IV.

III.

Any Definition of "Parent" for Purposes of ADC Eligibility Which Is Not Limited to Persons Under a Legal Duty to Provide Financial Support Violates the Equal Protection Clause.

A. *Definitions of Parent Which Include Persons Not Under a Duty of Legal Support so as to Deprive Children of Needed Aid Are Void Under the Ordinary Principles of Equal Protection Because Such Definitions Bear No Rational Relation to the Purpose of Title IV or Any Other Permissible State Use of the ADC Program.*

To survive a challenge based upon the equal protection clause of the Fourteenth Amendment, the distinctions implicit in the Alabama substitute-father regulation, and its counterparts, must, at a minimum, bear some relation to the purpose of the enabling legislation or to some other constitutionally permissible governmental purpose. As has been earlier stated, the central purpose of Title IV of the Social Security Act is to grant financial assistance to needy children deprived of their father's support. By denying assistance to children merely because their mother may have engaged in sexual relations with some man, the Alabama regulation excludes a class of children no less

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[18] An irrebuttable presumption that the substitute father has assumed support responsibilities, so that he would support the children if he had income, would be no different from the presumption of receipt of income which HEW has expressly prohibited. See note 17, *supra*.

deprived of parental support than those aided. Similarly, kindred regulations which seize upon the mere presence of a man in a household, or a display of transient kindness, or even the marriage of the man to a child's mother, to deny assistance create discriminations inconsistent with the purposes underlying Title IV. Only where a person has a legally enforcible duty to support a child can he be properly regarded as the child's parent, for only in these cases can it be generally assumed that the child enjoys prospects of parental support sufficient to differentiate him from the class of beneficiaries contemplated under Title IV.

The distinctions involved in the various substitute-father rules thus find no support in the purposes underlying Title IV. Under the test set forth in *Gulf, Colorado, and Santa Fe Ry. Co.* v. *Ellis,* 165 U.S. 150, and frequently followed thereafter, this lack of "a difference which bears a reasonable and just relation to the act in respect to which the classification is proposed" (165 U.S. at 155) alone renders the substitute-father eligibility rules violative of the Equal Protection Clause. Subsequently we will show that the stronger test of close or special scrutiny is called for here. We wish first to demonstrate that the substitute-father rules cannot meet even the minimal test of equal protection appropriate to cases involving economic regulation, for the distinctions created by these rules cannot be justified by reference to the purpose underlying Title IV, or indeed to any other constitutionally permissible government purpose.

The court below viewed Alabama's substitute-father rule as one based on moral condemnation of the sexual behavior of the mother. Such a judgment, the court decided, is not a reasonable basis for depriving needy children of the financial aid intended for them by the Act. 277 F. Supp. at 39-40. Seeking to avoid the impact of this ruling, Alabama repeatedly argues to this court that the regulation is *not*

based on "moral judgments relating to the sexual behavior of the poor . . . ." (See, *e.g.*, Appellant's Brief, p. 11.) Rather, Alabama claims that: (1) the regulation serves "to shift more of the burden of supporting these [illegitimate] children on the individuals who are responsible for their procreation . . ." (Appellant's Brief, Ex. J, pp. 108-109), and implicitly, that illegitimate births are thereby deterred; (2) a man who "has the privileges of a husband" (sexual intercourse) *should* assume responsibility for the support of the woman's children (Appellant's Brief, p. 11); (3) a state has an interest in "not giving a monetary advantage to people in illicit relationships which can have the effect of deterring marriage" (Appellant's Brief, p. 14); and (4) a "substitute-father" regulation allows more money to be available for the children who do not have their aid terminated because of it (Appellant's Brief, pp. 14 and 17). These, to the knowledge of *amici*, are the only objectives apart from the purpose of Title IV which have been advanced to justify substitute-father eligibility rules. We consider each below.

The argument that a substitute-father regulation shifts the burden of support of the children in question to those responsible for their procreation is so plainly fallacious that little comment is needed. Such a regulation enforces financial responsibility on no one. It merely deprives children of support, and it does so without inquiry into the substitute father's capacity to support the children or the many other factors which bear on the likelihood that such denial will induce "voluntary" contribution by the substitute parent. What is more, the person whom Alabama is allegedly "holding responsible" by this deprivation is held responsible for children whom he did *not* procreate. The men who are responsible for the procreation of children, legitimate or illegitimate, are held responsible for their sup-

port without regard to the substitute-parent regulation.[19] If on the other hand, one not so responsible wishes voluntarily to contribute to the support of a child, his support will reduce the child's need. Consideration of such contributions in determining the child's need is appropriate and indeed required under Title IV. 42 U.S.C. §602(a)(7). (See pp. 24-25 *supra*.)

Nor has Alabama introduced any evidence in support of its contention that the substitute-parent rule impedes the occurrence of illegitimate births in any way. What little evidence is available on the question—that yielded by a 1957 study of the Mississippi Children's Code Commission[20] —offers no support for Alabama's position. The only conclusion to emerge from that study is that removal from welfare rolls does not reduce the incidence of illegitimacy among the families terminated, hardly a conclusion which can be adduced in support of Alabama's position.

Moreover, even if one were to admit that some discouragement of illegitimacy is likely to result from the substitute-father regulation, such discouragement would not constitute a constitutionally permissible state interest, because the means utilized to achieve that end—termination of aid to existing children—conflicts with the purposes underlying Title IV.[21] As alternative means exist for the discouragement of illegitimacy, there is no justification for state adoption of a device which so plainly frustrates the central purpose underlying Title IV. Indeed, Congress, well aware of the rising incidence of illegitimate births, has now re-

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[19] See, e.g., the Alabama Support and Desertion Laws, Code of Ala., Title 34, §§89-104, and the Alabama Paternity Statutes, *Id.*, Title 27, §§12(1)-12(9).

[20] Reported in Bell, AID TO DEPENDENT CHILDREN 101-105 (1965).

[21] This is one of the conclusions of HEW's "Flemming Ruling" discussed *supra* p. 15.

quired state welfare agencies to offer, on a voluntary basis, family planning services to all appropriate persons. 1967 amendments to Title IV; Social Security Act, §402(a)(15)(B) and (C), 42 USC §602(a)(15)(B) and (C). Thus, we have in addition to the frustration of purpose which clearly results from Alabama's technique for the control of illegitimacy, an express Congressional judgment on an alternative means not involving such frustration.[22]

Even apart from this conflict with the purposes underlying Title IV, the State of Alabama has no constitutionally permissible interest in imposing sanctions to deter sexual activity where such sanctions are applied only to the poor. Clearly, a statute which purported to punish criminally sexual activity of the indigent alone would deny equal protection. It is of no consequence that the statute here involved does not discriminate between the rich and the poor on its face. Applicable only to the needy, the burdens of ineligibility are visited only upon the poor.[23] Cf. *Harper* v. *Virginia Board of Elections*, 383 U.S. 663. Nor is it a defense that such sexual activity may be the subject of criminal penalties of general application. In *McLaughlin* v. *Florida*, 379 U.S. 184, this Court held unconstitutional a statute imposing criminal penalties for interracial fornication even though there existed another criminal statute of general applicability prohibiting fornication. We submit

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[22] Moreover, to the extent that Alabama's disqualification of families in which illegitimate births are likely to occur is based on the unspoken assumption that such families constitute undesirable domestic environments, this assumption is belied by appellant's own analysis of the characteristics of such homes. See, Appellants' Brief, pp. 31-34, discussing "A Demonstration Project—Strengthening Family Life for ADC Children Living in Homes Where Conditions Were Considered Unsuitable," reprinted in the Appendix to Appellant's Brief at 587.

[23] It is also worthy of note that, as anticipated, the consequences of implementation of Alabama's substitute-father policy fell much more heavily on negroes than whites. See Appellee's Brief.

that just as the state may not impose additional penalties to deter interracial sexual activities, so also may it not impose additional sanctions to deter like activities merely because the persons engaging in them are indigent. Further pointing up the discriminatory character of this additional deterrent is the fact that the ADC program, which is conditioned upon need, stands alone among governmental transfer programs in imposing such sanctions on those engaging in disfavored sexual activities. All of the programs under which disbursements are made without reference to the applicant's actual need, such as Social Security old age pensions, workmen's compensation, and unemployment insurance, are free of such conditions.

Closely related to the above arguments is Alabama's assertion that a man enjoying "the privileges of a husband" should assume the responsibilities of supporting her children. To this, the short answer is again that the substitute-father rules do not impose responsibility of support; they deprive children of aid. If a State wishes to impose financial responsibilities for child support on those enjoying such privileges, the means are readily at hand.

We next address ourselves to Alabama's contention that its definition of father is necessary to avoid placing "a premium on illicit relationships." By this, Alabama apparently means that without its definition ADC will encourage illicit relationships by supporting such unions while being unavailable to those entering into regular marital relations. This position is clearly founded on erroneous premises, for Alabama, like most states, does not impose a legal duty upon stepparents to support stepchildren unless they voluntarily assume that duty. Consequently, adherence to the federally contemplated definition of parent as a man in loco parentis with the legal duty of support would make ADC available even though a marriage is contracted.

A man and woman whether living together or not—and who are *not* legally married—who beget offspring, *are* the mother and father of those children. So long as that man is in the home, there is no eligibility for ADC because there is a man—the father—who has the legal duty of supporting the children. On the other hand, merely because the mother and a man *not* the natural father of the children marry, there does not arise—under Alabama law and that of most jurisdictions—an obligation on the part of this man to support the children. Marriage, thus, does not make this man the "father" of the children for purposes of ADC because such a support duty is lacking. This is why HEW has informed the states (Handbook of Public Assistance Administration Pt. IV, § 3412):

> In the absence of legal obligation to assume a parental role, a stepparent is no more of a "parent" than any other person acting in loco parentis. *In these situations, the only safeguard to the child's right to assistance is his eligibility under the condition of being deprived of the support or care of the natural parent.* (Emphasis added.) (Full text set out in Appendix A, p. 3a.)

The plain fact is that it is Alabama's arbitrary definitions of "father," and the kindred definitions employed by other states, which deter marriage. It is quite natural for a mother, whose husband is dead or has deserted her, to seek new male relations with a view towards marriage. However, under the substitute-father rule, whenever "there appears to be" a man who is visiting her for the purpose of sexual relations, the mother has the burden of proving that she is *not* having sexual relations. Therefore, the knowledgeable ADC mother will fear the establishment of an open friendship with a male. The rule thus inhibits

those initial contacts which may develop into stable marital unions. Moreover, if the friendship progresses so that the mother thinks of marriage with the man, she will again be deterred because the rule operates to terminate ADC assistance when the marital union is contracted even though her new husband may not be willing or able to assume support duties, and no legal duty of support by him exists.

Indeed, the reason why an Alabama stepfather, by the mere fact of marriage to the mother, does not have a legal duty to support her children is that Alabama public policy has sought to encourage such marriages and not deter them through such support liability. The Supreme Court of Alabama long ago declared that there is no duty of support unless the stepfather voluntarily assumes it. The court also declared:

> . . . such intention [to assume support responsibility] should not be slightly or hastily inferred, and from such circumstances as to operate to deter stepfathers, by the apprehension of being burdened beyond their ability, from continuing and keeping his wife's children in such relation with their mother as to receive her constant watchfulness, care, and training, and the beneficial enjoyment of her companionship.[24] *Englehardt* v. *Yung's Heirs*, 76 Ala. 534, 542 (1884).

Alabama's substitute-father rule in ADC militates against this public policy of encouraging marriage and family life. It deters marriage; it deters the opportunity for establishing the friendships which lead to marriage. It

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[24] Similar considerations—a concern with deterring marriages between mothers and prospective stepfathers, and proper relations thereafter—have influenced legislatures elsewhere against imposing automatic support liability on stepfathers. See, *e.g.*, tenBroek, *The Impact of Welfare Law upon Family Law*, 42 Calif. L. Rev. 458, 479 (1954).

does this at the same time that it flouts the congressional intent to aid the needy child who lacks a father in the home with a duty to support him.

Appellants' final rationale—that the "substitute father" regulation allows more money to be made available to the children who do not have their ADC aid cut off because of it—is, of course, true. It is also irrelevant, for it does not speak to the reasonableness of the difference between the children classified as ineligible and those classified as eligible. Any restraint, however arbitrary and capricious, will reduce the number of recipients and so possibly increase the benefits available to the remaining children. To say that a discrimination makes it possible to treat those favored by it more liberally can hardly be accepted as a justification for the practice. Such preference is of the essence of discrimination.[25]

The inappositeness of the substitute-father rule as a device for attainment of the objectives advanced in justification by the State of Alabama cannot but raise fears that the rule is in fact based on a much more elemental policy —simple moral disapproval of the mother's association with a man to whom she is not married. The reason that Alabama so desperately seeks to avoid this conclusion is that such characterization would reveal the substitute-father rule to be nothing more than a substitute for the

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[25] Nor can Alabama argue that the regulation is needed to save its money. *Cf. Edwards* v. *California*, 314 U.S. 160, where a statute which prohibited persons from assisting indigent non-residents to enter the state was held unconstitutional despite California's effort to justify the statute on the ground that the influx of indigent persons in need of public assistance would create financial problems of "staggering" proportions (314 U.S. at 173). If protection of the public purse is not a proper justification for the arbitrary denial of legal rights to non-residents, *a fortiori* such a purpose cannot justify arbitrary classification of residents. See also, *Collins* v. *State Board of Social Welfare*, 248 Iowa 369, 81 N.W.2d 4 (1957).

"suitable home" requirement struck down by Secretary Flemming in 1961:

> I have concluded that when a needy child who otherwise fits within the Aid to Dependent Children program of the State is denied the funds that are admittedly needed to provide the basic essentials of life itself, because of the behavior of his parent or other relative, the State plan imposes a condition of eligibility that bears no just relationship to the Aid to Dependent Children program. I therefore believe that this Department should inform the State agencies administering Aid to Dependent Children plans that eligibility conditions with the effect described above are not compatible with entitlement for continued Federal grants.[26]

As the United States Congress affirmed, by implication, the "Flemming Ruling" in 1962,[27] and concomitantly disapproved eligibility restrictions based on moral considerations, Federal law would preempt any assertion of a justifying State interest founded in similar considerations.

These, then, are the fanciful conjectures with which Alabama seeks to justify its "substitute parent" regulation: that its arbitrary redefinition of "father" is needed to deter illicit relationships (when, in fact, it encourages such relationships); that the substitute-father regulation is needed to impose support liability of fathers of illegitimate children (when, in fact, no such liability is imposed

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[26] Notice of this ruling was given to all "State Agencies Administering Approved Public Assistance Plans," including the Alabama Department of Pensions and Security, on January 17, 1961 in State Letter No. 452, Bureau of Public Assistance, Social Security Administration, Department of Health, Education and Welfare, page 1.

[27] See, Pub. L. 87-543, §107(b) (1962), 42 U.S.C. §604(b).

by the regulation); that sexual partners of women *should* support children not their own (when, in fact, the Social Security Act is not directed towards regulating the morality of unrelated males, but to protecting the lives and health of needy children); that it is reasonable to discriminate against some needy children because others are benefitted by such discrimination.

To deal with such assertions, this Court has ample precedent:

> Despite the broad range of the State's discretion, it has a limit which must be maintained if the constitutional safeguard is not to be overthrown. Discriminations are not to be supported by mere fanciful conjecture . . . They cannot stand as reasonable if they offend the plain standards of common sense. *Hartford Steam Boiler Inspection Co.* v. *Harrison*, 301 U.S. 459, 462.

B. *Special Scrutiny of ADC Eligibility Rules Is Required Because of Their Drastic Effect on the Ability of the Very Poorest and Most Helpless Children to Maintain Life Itself.*

The basic principle governing the application of the Equal Protection Clause to state classifications was stated by this Court in *Gulf, Colorado and Santa Fe Railway* v. *Ellis*, 165 U.S. 150, 155, and numerous times since then:

> [T]he attempted classification . . . must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis.

This Court has also stated that classifications will not, in the usual instance, be set aside if "any" reasonable state

of facts can be found to justify it. *Metropolitan Casualty Ins. Co.* v. *Brownell*, 294 U.S. 580, 584. We have shown that there is no reasonable state of facts which justifies the classification here in question. However, we also believe that the distinctions involved in application of the substitute-father rules would violate constitutional guarantees of equal protection, even if some marginal credence is given to Alabama's proffered justifications.

This Court has "long been mindful that where fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be closely scrutinized and carefully confined." *Harper* v. *Virginia Bd. of Elections*, 383 U.S. 663, 670; *Griswold* v. *Connecticut*, 381 U.S. 479, 498; *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. "Strict scrutiny" is particularly required where fundamental personal rights of poor and politically powerless minorities have been drastically affected by the classification. Cf. *Griffin* v. *Illinois*, 351 U.S. 12, 23-24 (Frankfurter, J., concurring); *Harper* v. *Virginia Bd. of Elections, supra; Hobson* v. *Hansen*, 269 F. Supp. 401, 507-08 (D.D.C. 1967);[28] see also *United States* v.

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[28] In *Hobson*, Circuit Judge Skelley Wright reaffirmed and explained the principle that a classification involving poor and politically impotent minorities must be examined more carefully than would be usual because it cannot be so readily presumed that a legislature will deal fairly with their interests (269 F. Supp. at 507-08):

> This need for investigating justification is strengthened when the practice, though not explicitly singling out for special treatment any of the groups for which the Constitution has a special solicitude, operates in such a way that one such group is harshly and disproportionately disadvantaged. *See Griffin* v. *Illinois*, 351 U.S. 12 (1956) and its progeny . . . *See also Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966) . . .
>
> The explanation for this additional scrutiny of practices which, although not directly discriminatory, nevertheless fall harshly on such groups relates to the judicial attitude toward legislative and administrative judgments. Judicial deference to these judgments is predi-

Carolene Products Co., 304 U.S. 144, 152-153, n. 4, in which this Court recognized that:

> [p]rejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry.

Rarely, if ever, has a case come before this Court where the classification demands more careful and close scrutiny than this one does. The discrete and insular minority in this case is the most helpless and politically impotent in our land: young children, impoverished to the point where they live at levels even below welfare standards, virtually all-Negro.[29] They are to be punished for the prejudices of

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cated in the confidence courts have that they are just resolutions of conflicting interest. This confidence is often misplaced when the vital interests of the poor and of racial minorities are involved. For these groups are not always assured of a full and fair hearing through the ordinary political processes, not so much because of the chance of outright bias, but because of the abiding danger that the power structure . . . may incline to pay little heed to even the deserving interests of a politically voiceless and invisible minority. These considerations impel a closer judicial surveillance and review of administrative judgments adversely affecting racial minorities and the poor, than would otherwise be necessary.

Cf. *Yick Wo* v. *Hopkins*, 118 U.S. 356; *Takahasi* v. *Fish and Game Commission*, 334 U.S. 410; *Oyama* v. *California*, 332 U.S. 633; *Truax* v. *Raich*, 239 U.S. 33.

On the general distinction between these lines of equal protection cases and cases involving economic regulation (e.g., *McGowan* v. *Maryland*, 366 U.S. 420), see McKay, *Reapportionment and Equal Protection*, 61 MICH. L. REV. 645 (1963).

[29] Whatever view one may take of the appellee's contention that the regulation in question was motivated by intent to racially discriminate (and *amici* believe, on the record of this case, that it was), there is no dispute that the regulation has the effect of discriminating against Negroes. See the comment of the court below, 277 F. Supp. at 37, n. 7. See also Plaintiff's Exhibits 25, 31, 41.

our society or the sins of their parents, but not for anything that they can possibly affect.

The personal rights involved in this case may be based on statute, the Social Security Act, but they are nevertheless as fundamental as any of the rights affirmed by this Court. At issue is whether or not the children in question shall live or starve. (One might note, as the chairman of a special Senate subcommittee did recently, that "whether the term used is malnutrition, hunger, or starvation makes little differences. Eyewitnesses, including members of this subcommittee, have observed and reported conditions that this subcommittee has described as 'shocking' and as constituting a national emergency. These conditions are not new. . . . Nor are they peculiar to Mississippi. They exist in other states. They exist in other areas of the country." Senator Clark, *Hearings on Hunger and Malnutrition in America,* Before the Subcommittee on Employment, Manpower and Poverty of the Committee on Labor and Public Welfare, U.S. Senate, 90th Cong., 1st Sess., July 11, 12, 1967.) We cannot believe that a state regulation which deprives young children of the very opportunity for life which the Social Security Act was designed to protect involves a lesser right than the right to an equal opportunity for education involved in *Brown* v. *Board of Education,* 347 U.S. 483, or the "right to procreate" involved in *Skinner, supra.* In another context, Mr. Justice Douglas asked: "Is the right of a person to eat less basic than his right to travel which we protected in *Edwards* v. *California,* 314 U.S. 160?" *Bell* v. *Maryland,* 378 U.S. 226, 255. Clearly, not.[30]

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[30] Page 17 of Appellant's Brief contains the astounding statement that "the picture suggested [by plaintiffs below] was that if a mother did not receive her ADC grant, the children starved. As it turned out many of the mothers married," citing an "exhibit" not introduced into evidence, Exhibit E to appellants' Brief. Assuming the exhibit is valid,

The numbers of children whose very lives are involved in the outcome of this case are large indeed; 18,000 in Alabama; 23,200 in Georgia (*Roussaw* v. *Burson*, M.D. Ga., C.A. No, 2323, Temporary Restraining Order of March 18, 1968), at least 10,000 in Louisiana (*Griffin* v. *Bonin*, USDC, W.D. La., C.A. No. 13,521, per curiam opinion granting a Temporary Restraining Order, March 7, 1968), and countless more in other states. Should there be any doubt about the arbitrary nature of Alabama's regulation, surely it should be most closely and carefully scrutinized.

Such scrutiny will, we are convinced, remove any possible impediment to a conclusion of the arbitrary nature of the substitute-father regulation. Lacking any rational justification, the regulation denies essential ADC financial assistance to children who are in fact needy and deprived of parental support due to the death or absence of their father. The financial needs of these children are no less acute than the needs of those who continue to receive aid. Their dependency is no less severe. They are not responsible for and cannot control the circumstances of their birth or the behavior of their mother. They are the helpless victims of an invidious regulation which denies them the equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution.

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several comments are appropriate: (1) Exhibit E, giving statistics on marriage in Dallas County, Alabama, alone, shows that out of a grand total of 238 cases closed or denied because of the regulation, only 24 mothers married; (2) no indications of the income status of those 24 mothers is given; (3) only 19 of the 238 cases were reported as having "income sufficient to meet need". No light is shed by Exhibit E on the health conditions of the other 219 mothers (and their many more children), except that one may assume that many of them did not have income sufficient to meet need during the time ADC was denied to them.

CONCLUSION

The Court should hold that substitute-father regulations violate the Social Security Act and the Fourteenth Amendment and that States may treat as "parents," for the purpose of ADC eligibility only persons with a legal obligation to provide support. The decision below should be affirmed.

Respectfully submitted,

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APPENDIX A

Excerpts from Parts IV and V of the Handbook of Public Assistance Administration, United States Department of Health, Education, and Welfare.

Part IV. *Eligibility and Payments to Individuals*

3410-

3499. *Factors Applicable to Aid to Dependent Children* *11/4/46*

3410. *Deprivation of Parental Support or Care*

3411. *Provision of the Act*

Title IV, section 406 (a) reads:

> "The term 'dependent child' means a needy child . . . who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent . . ."

3412. *Interpretation*

This provision sets forth the two eligibility factors, "need" and "deprivation of parental support or care," on which Federal participation is conditioned. The provision requires that both need and deprivation of parental support or care exist in the individual case but does not require that an affirmative showing be made that a causal relationship exists in the individual case.

Under the act, the term "deprived of parental support or care" is interpreted to encompass the situation of any child who is in need and otherwise eligible, and whose parent either has died, has a physical

or mental incapacity, or is prevented by continued absence from providing maintenance, physical care, and guidance for his children. In this interpretation "parent" may mean either the father or the mother. Since the interpretation relates to parental support or care, it is equally applicable whether the parent was the chief breadwinner or devoted himself or herself primarily to the care of the child.

Situations within the scope of the term "deprivation" are as follows:

1. *Children Living With Both Natural Parents*

   Children may be included when living with their natural mother and father, if they are deprived of parental support or care by reason of the incapacity of either parent.

2. *Children Living With Either Father or Mother*

   Children may be included when deprived of support or care by reason of the death, incapacity, or continued absence of either the mother or father.

3. *Legally Adopted Children*

   Legally adopted children are included on the basis of deprivation of parental support or care due to the death, continued absence, or incapacity of one or both of the parents who adopted the child, rather than on the basis of deprivation of the natural parent's support or care. This interpretation recognizes the current development of social legislation designed to effect complete substitution for the natural parents, in the

relationship sustained by a child and the parents who adopt him.

4. *Children Living in Home of Stepparents*

A child living in the home of a stepparent who is not required by State law to assume a parental role, may be included on the ground that he lacks the support or care of the natural parent who is dead or absent. In the absence of legal obligation to assume a parental role, a stepparent is no more of a "parent" than any other person acting in loco parentis. In these situations, the only safeguard to the child's right to assistance is his eligibility under the condition of being deprived of the support or care of the natural parent. In States in which the stepparent is required to assume a parental role, a child may be deprived of support or care if the stepparent is dead, absent, or incapacitated.

5. *Children of Unmarried Parents*

Children of unmarried parents may be included within the scope of title IV on the same basis as children of married parents. The act provides for the use of aid to dependent children as a maintenance resource available on equal terms to all children who meet eligibility conditions.

6. *Unborn Children*

When the mother's pregnancy has been determined by medical diagnosis, Federal participation in payments on behalf of an unborn child may be claimed on the basis of the same eligibility conditions as apply to other children.

Appendix A

Part V.. *Fiscal Operations and Accountability*

3000-

3999. *Accountability for Federal Funds Advanced*

8/5/63

3300. *Fiscal Accounting by State Agencies*

3320. *Recipient Count*

The quarterly statement of expenditures and recoveries which is required for OAA, AB, AFDC, APTD, and AABD under title XVI must include, as a part of the basis for computing the amount of Federal participation in such expenditures, the number of eligible recipients each month. The procedures for determining the recipient count is set forth below.

• • •

In AFDC, the recipient count for a family may include all eligible children, plus the eligible relative with whom such children are living. Effective October 1, 1962, when at least one of the children in a family is eligible due to the unemployment or incapacity of his own parent in the home, the recipient count may include all eligible children and two eligible relatives with whom the children are living, if their needs were included and they are married to each other. In the context of deprivation by reason of incapacity or unemployment, the term "parent" means the natural or adoptive parent. A step-parent can be counted as the second eligible adult recipient only when he is the legal spouse of the child's own parent. The conditions governing deprivation due to unemployment or incapacity of a parent are set forth in IV-3423 and IV-3424.

APPENDIX B

Alabama's Substitute Father ADC Eligibility Rules.

1. The Rule Prior to the Decision Below

Pt. I, Ch. II, Subd. V(A) of the Alabama Manual of Public Assistance Administration:

V. *Child Ineligible if There Is a Father or Mother Substitute*

A. *Father Substitute:* An able-bodied man, married or single, is considered a substitute father of *all* the children of the applicant-recipient mother living in her home, whether they are his or not, if: (1) he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation; or (2) though not living in the home regularly, he visits frequently for the purpose of cohabiting with the child's natural or adoptive mother; or (3) he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere. Pregnancy or a baby six months or under is prima facie evidence of a substitute father as indicated above.

When there appears to be a substitute father, disapprove an application or terminate aid unless the mother establishes that one of the following situations exists: (1) she and/or the substitute father meets the criteria of disability as described under "Physical or Mental Incapacity"; (2) the substitute father is no longer living in the home or visiting the home for the purpose of cohabiting with her; or (3) the relationship is broken between the mother and a man who has not been living in the home or frequenting the home.

Appendix B

Evidence showing that the relationship has been discontinued includes proof such as: the father has married another woman; or he is in a public institution; or, if he has been living in the home, he is now living at another address; or a notarized statement by the mother and substitute father that they have discontinued their relationship. This evidence must be corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers. If needed, the mother will be given 30 days to present her evidence before her application is disapproved or her case closed unless additional time is needed. If additional time is needed, another 30 days may be allowed. In no instance shall more than 60 days be allowed. Although the burden of proof rests with the mother, the worker will assist in any way possible to help the mother establish that she has broken a relationship. Also, before rejecting an application or closing a case, the worker will talk with the mother about reasons for the agency's action and about her right to reapply at any time that she does break the relationship. If the family is otherwise eligible, the case should be recertified for aid immediately.

Appendix B

2. The Rule Prior to this Court's Dissolution of its Stay of the Order Below

Administrative
Letter No. 2373
November 13, 1967

STATE OF ALABAMA
DEPARTMENT OF PENSIONS AND SECURITY
Montgomery

To: COUNTY DIRECTORS OF PENSIONS AND SECURITY

SUBJECT: Discontinuation of the Substitute Parent Policy —Effective Immediately

In line with the decree issued by the United States District Court for the Middle District of Alabama, Northern Division, the substitute parent policy is no longer in effect. This change deletes Item V which appears on pages II-24, 25, 25a, and 26 of Part I, *Manual for Administration of Public Assistance.* It also deletes all references to this policy that appear elsewhere in the manual.

In the event there is no appeal, we will send you the manual revision incorporating this change at an early date. In the meanwhile, in addition to the changes referred to above, provisions in the first paragraph of Item IV on page II-24 are being amended as follows:

> If children *live in the home with two able-bodied parents,* ADC cannot be given even though there may be no source of income. "Parent" in this instance refers to:
>
> 1. A legal parent.
> 2. A stepfather or stepmother.
> 3. A man living in the home who assumes the role of father whether or not married to the mother. In

such case consider him the father of all the children in the home.

3. The Rule Presently in Force in Alabama Under the District Court's Order

Administrative
Letter No. 2402
February 9, 1968

STATE OF ALABAMA
DEPARTMENT OF PENSIONS AND SECURITY
Montgomery

To: COUNTY DIRECTORS OF PENSIONS AND SECURITY

SUBJECT: Administrative Letter No. 2398, "Substitute Parent Policy," January 31, 1968

This will confirm and refine the definition of parent as given in the administrative letter referred to above and in our telephone calls to you on January 31, 1968. If children *live in the home with two able-bodied parents,* ADC cannot be given even though there may be no source of income. "Parent" in Item "IV" on page II-24 of *Manual for Administration of Public Assistance,* Part I, is now defined as:

1. A legal parent. This includes a father who has legitimated his child and a father of a child whose paternity has been judicially determined.
2. A stepparent. A woman or man who has established a common-law marriage with a child's parent comes within the definition of stepparent. Both parents must be free to contract matrimony and must represent themselves in the community as man and wife in order to establish a common-law marriage.

• • •

APPENDIX C

Other Substitute Father ADC Eligibility Rules.[1]

I. *The Character of the Rules*[2]

A. *Rules which require both presence in the family home and an undefined "father-role" which need not include support of the children.*

1. Arizona ("head of household")
2. Idaho
3. Indiana ("partially assume" father-role)
4. Kentucky
5. Oklahoma

B. *Rules which require presence but not "father-role."*

1. New Hampshire
2. New Mexico
3. South Carolina
4. Texas
5. Utah (but eligible if "stable non-marital union")
6. Virginia

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[1] No definitive compilation of substitute father ADC eligibility rules was available to *amici*. Welfare regulations and manuals, as a general rule, are not published. In many cases, access to the regulations and manuals is most difficult to achieve. This Appendix is based on the state welfare manuals in the Library of the Columbia University School of Social Work and correspondence from state welfare officials to the Center on Social Welfare Policy and Law. These sources provided no information on Missouri and Tennessee. We believe this compilation is otherwise complete.

[2] This breakdown categorizes the rules as to two general factors—whether or not the "substitute father" need be present in the family home, and whether or not he occupies an undefined "father-role" towards the children, which need not include providing them with support. The compilation that follows is alphabetical by state.

Appendix C

C. *Rules which require "father-role" but not presence.*

1. D. C.
2. Mississippi

D. *Rules which require neither "father-role" nor presence.*

1. Alabama
2. Arkansas
3. Georgia
4. Louisiana
5. Michigan
6. North Carolina (if one illegitimate child)

II. *The Texts of the Rules.*

1. *Arizona.* Family Services Manual, § 3-403.6(D).

D. *The Adult Male in the Home:* State Law defines a Dependent Child as "Dependent child means a needy child under the age of eighteen years who has been deprived of parental support or care by the reason of death, unemployment of the supporting parent as defined and prescribed by federal statutes relating to welfare, continued absence from the home, or physical or mental incapacity of a parent, and whose . . ."

If an adult male is living in a household and acting as head of the household, the children in the family are not deprived of parental support because of the death or continued absence from the home of the father. Depending on the circumstances, the children might be deprived of parental support of the father because of physical or mental incapacity

of the father or because of unemployment of the father.

Whenever an adult male is found to be living in an ADC household and acting as head of the household, the eligibility of which depends upon the father being absent from the household, the ADC grant will be immediately suspended. The grant will not be reinstated until "deprivation of parental support" as an eligibility factor is again established and verified.

When the caseworker establishes the presence of an adult male in the home of an ADC applicant or recipient and as the result rejects the application or discontinues an active case, and the person whose application was rejected or grant discontinued makes a new application or requests reinstatement, on the basis the unrelated adult male is no longer in the home, the new investigation of deprivation of parental support must determine without doubt the man in question has removed himself completely from the household. It is suggested that such cases be referred to the Special Services Unit for investigation.

2. *Arkansas.* Dept of Public Welfare Manual, §2813 (July 1966).

When a step-parent resides in the home, or when a parent maintains a stable non-legal union, "continued absence of a parent from the home" can no longer be considered as reason for deprivation. *A stable non-legal union is presumed, even though a father is not living continuously in the home, where the mother*

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affords the privileges of a husband to a man and there is a continuing relationship. Evidence of such a relationship may be:

1. Frequent visits by the man to the home of the mother.
2. Frequent appearances of the man and mother together in public.
3. Repeated pregnancy by the same man.
4. Joint charge or bank accounts or privilege of mother to charge to man's account, joint purchases.
5. Substantial gifts to the family by the man.
6. Address of the family given as man's residence to employer, on driver's license, or with license authorities.
7. Purchases on installment made by man if he has delivery made to the mother's address or any arrangement made with the man's creditor to have his bills for any unpaid balance on his purchases sent to him at mother's address.
8. Delivery of man's mail to mother's address.
9. Declaration of children and/or mother as the dependents of the man on W-4.

One of the above facts may not be sufficient evidence of the existence of a stable non-legal union. All possible evidence will be obtained by the county department and the decision that a union exists or does not exist will be made. (Emphasis in original.)

3. *District of Columbia.* Handbook of Public Assistance Policies and Procedures, EL. 4.5 (IV) (C-E) (July 1965)

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C. *Relationship with a "Substitute Parent".*

1. Assistance must be denied when the mother and children share the family's living quarters with a man who maintains the role normally occupied by a husband and parent, unless the man is incapacitated.

   Any man who is not a close blood relative of the mother, i.e., father, grandfather, brother or son, who shares the family's living quarters, is presumed to be in this relationship, unless clear evidence is presented to the contrary.

2. Assistance must be denied when the mother continues her relationship with her husband or has a continuing association with a man (unless he is incapacitated) whose relationship to the family is that of husband and father even though he maintains an address elsewhere.

This policy also applies when a man maintains such a relationship with the family even though he maintains an address elsewhere.

Social Worker's Responsibilities. In carrying out this policy the Social Worker will:

1. Investigate or refer to Investigation Service any evidence of a relationship with a man;
2. Evaluate the nature of his relationship to the family, when such a person is found;
3. Immediately terminate the payment when the man is living in the home or otherwise continuing a family relationship.

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D. Some facts to be considered in determining that the man (not living in the home) has a relationship with the children similar to that of father and child are:

1. Visits the home to see the children;
2. Contributes to the support of the children;
3. Exercises parental control and guidance;
4. Donates gifts to the children;
5. Cares for the children when the mother is ill or absent;
6. Is the father figure in the home;
7. Acts "at home" with the children by dressing, feeding, carrying, or fondling them;
8. Take the children on walks, excursions and the like;
9. Shows concern about the health of the children and uses health facilities in the community to restore the health of the children;
10. Provides clothing and other necessities for the children;
11. Shows interest in the educational progress of the children, such as by attending PTA meetings, visiting school about the children, helping the child with school work;
12. Responds in time of crisis, such as illness of children, child in difficulty with the police.

E. Children whose mother has a *conjugal relationship* with a man outside the home may be included in the

AFDC Program when there is a clear dissociation from the normal family relationship as defined above, and provided they are otherwise eligible.

All resources and possibility of support from the man concerned must be determined.

4. *Georgia.* Manual of Public Assistance Administration, Part III, §V, p. 7 (June, 1964).

(5) *Substitute Father:* A man living in common-law relationship with a woman is considered a substitute father of any child had by that woman, or any child that woman has had by another man. Further, a man living in common-law relationship with a woman is responsible for the support and care of his and her children, regardless of whether or not he is married to another woman. Regulations place the same responsibility on this man as if he were the legal husband. The rules for establishing deprivation are the same as those used in establishing it in a legal-father situation.

A common-law relationship is considered to exist when a man, married or single, lives in the home with the A/R for the purpose of cohabitation or, if not living in the home regularly, he visits frequently for the purpose of living with or cohabiting with the applicant.

Pregnancy or a newborn baby is prima facie evidence of a substitute father. Only in situations where strong, convincing evidence is submitted, proving that the substitute father is no longer in the home and has discontinued his relationship will the factor of deprivation be established. Such evidence would include proof that the man has moved to a distant place, or has been admitted to a

public institution. The burden of proof rests on the mother. Testimony of the applicant must be corroborated by law-enforcement officials, friends, neighbors, ministers, grocerymen and similar sources. All evidence in cases involving substitute fathers is submitted to the County Board for determination of whether or not there is a substitute father and whether or not a common-law relationship exists.

5. *Idaho.* Letter from Harold H. Smith, Director of Social Service, Idaho Department of Public Assistance (Dec. 7, 1966), in response to inquiry from Amicus Center.

"In regard to the Aid to Dependent Children program, the Department defines a parent as follows: 'A parent, as used in connection with ADC, is considered to mean either a step, natural, or adopted father or mother of the child. A child living with a natural parent and a step parent, or with a natural parent and some other person acting as a parent, is considered to be living with parents.'"

6. *Indiana.* Public Assistance Manual, III-C-15.

13. *Substitute Father in the Home*

There may be instances where a mother, who applies for or receives ADC for her children, has established a relationship with a man (who may or may not be the natural father of the children) and there is reason to believe that this man is living in the home with the mother and the children, partially assuming the role of husband and father. If it is established that

such a man lives continuously in the home, the family is not eligible for ADC.

When such a condition is suspected or established, the worker shall explain to the mother and, if possible, to the man involved, this factor of eligibility, and provide them with whatever social services are appropriate for remedying the situation. There may be legal bars to a desired marriage between the man and woman which could be removed. If the man is not the father of any of the children and cannot or will not assume responsibility for their support, the mother may be able to use casework help to terminate her relationship with the man. If the man is the alleged father of any of the children, and marriage is not feasible, steps should be taken to establish paternity. See Chapter VIII, Section A for further guides for social services.

When the presence of a man in the home is suspected but not established by admission of the mother and/or the man involved, the worker is expected to take whatever investigative steps are indicated to establish the facts, and to record the supporting evidence. This requires being particularly alert in observing conditions in and around the premises, getting the names and addresses of all adults found in the home on the occasion of the worker's visit, and learning their relationship to the family. It may mean checking employment records, credit accounts with business firms, landlord's records, interviewing reputable persons in the community. It may

also require checking by means of the license number if an automobile is parked regularly in front of the ADC home. The caseworker shall also observe the names on apartment mail boxes and identifying door bells.

7. *Kentucky,* Public Assistance Manual of Operation, §2214(G) (Nov. 1965).

G. *Child living with either parent and person unrelated by marriage in an established family relationship.* The child is considered as deprived of parental support only if incapacity exists.

An established family relationship is defined as a stable non-legal union in which the parent lives with a person of the opposite sex who occupies the role of spouse of the parent and *occupies a paternal* role with respect to the children in the family. In determining the existence of such a relationship, the following guides are used:

1. Presence of the person in the home.
2. Frequent appearances of the man and woman in public as a couple and of the couple accompanied by the children.
3. Repeated pregnancy on the part of the woman by the same man.
4. Joint charge or bank accounts or joint purchases of household items or items for the benefit of the children.
5. School registration of a child listing name of person as parent.

6. Observation of care or control of child exercised by the person.

7. Rental agreement made by the individuals as a couple.

8. Address of family given as person's home address on drivers license, to employer or other third persons.

9. Declaration of children and/or parent as dependents for income tax purposes.

10. Hospital admissions of parent or child under the name of person.

Presence of one of the above factors does not necessarily prove an established family relationship, but if after careful analysis of the total home situation, circumstances indicate that an established family relationship exists, the child(ren) shall not be considered deprived of parental support and the case will. be suspended, discontinuing the money payment.

Eligibility for the money payment cannot be reestablished until the individual occupying the parental role has been absent from the home for 30 days or more. However, services will continue during the suspension period for the purpose of making a plan for the child(ren). If at the end of 60 days the established family relationship continues to exist, the case will be discontinued.

8. *Louisiana.* Manual of Policies and Procedures, §§2-740 (Dec. 1960) and 2-742.1 (May 1964).

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2-740 DEPRIVATION DEFINED

A. *Persons in relation to whom deprivation shall be established*

	When child lives with:	The condition of deprivation shall be established in relation to:
Rev.	(1) Both parents living in marital union (legal or nonlegal).	(1) One parent in the home or spouse with whom the parent in the home is maintaining a nonlegal union. (Parent means legal parent in home, legal stepparent in home, or nonlegal spouse in the home or with whom the parent in the home is maintaining a nonlegal union.) (See 2-742.1).
	(2) One parent not living in marital union:	(2) Absent parent:
	(a) Except for minor unmarried mother	(a) Absent parent—This is applied to the latest absent spouse (legal or nonlegal) of parent in the home.
	(b) Minor unmarried mother	(b) Absent parent of child and parents of minor unmar-

ried mother as provided in Section 2-749.

(3) Neither parent. (3) Absent legal parents (as defined in Section 2-741.)

C. *Child living with both parents*

A child who lives with two parents, or a parent and a stepparent, *or a parent and his nonlegal spouse,* does not meet the condition of deprivation unless one of these persons is incapacitated as provided in Section 2-751A. (Emphasis in Original.)

2.742.1 A. *Definition of nonlegal marital union*

A nonlegal marital union exists between a parent of an ADC child and a person of the opposite sex when they are not married to each other and there is sufficient evidence to conclude that:

(1) They live together as husband and wife in a common household,

OR

(2) Their relationship is of a marital nature although they do not live together in a common household.

B. *Nonlegal marital union as related to deprivation of parental support*

In Section 2-740, Deprivation Defined, the definition of parent in relation to whom deprivation

must be established includes the spouse with whom the child's parent in the home is maintaining or has maintained a nonlegal marital union.

Therefore, when the parent applying for or receiving ADC is maintaining or has maintained a nonlegal marital union as defined above, deprivation of parental support must be established in accordance with 2-740 B. in relation to this parent and this parent's latest nonlegal spouse.

If the parent has maintained a nonlegal marital union in the past, a child in the home shall be considered deprived of parental support only if there is evidence from which it is concluded that the nonlegal spouse of the past is dead or continually absent from the home and there is no nonlegal spouse at present.

If the parent is currently maintaining a nonlegal marital union, a child in the home shall be considered deprived of parental support only if incapacity of one or both adults (parent and parent's nonlegal spouse) is established. (Nonlegal marital union as applicable to suitable home, see 2-734.)

C. *Evidence of a nonlegal marital union*

Examples of evidence listed below are not exclusive. In a given case situation, evidence other than the examples listed may be sufficient to conclude that the ADC parent is or is not maintaining a nonlegal marital union.

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(1) *Maintaining a common household.* A common household is being maintained by two or more persons when they share shelter space, food or furnishings. A man's employment, such as construction work, merchant marine, etc. may cause him to be away from the household for long periods yet he is considered a member of the household if this is the place that he considers home and to which he returns periodically.

When the parent and another adult of the opposite sex who are not married to each other acknowledge that they are maintaining a common household, this is sufficient evidence that a nonlegal marital union exists.

When they are referred to in the community at large as living together as husband and wife, a nonlegal marital union shall be presumed to exist.

Any of the following or similar evidence is sufficient to conclude that the couple are maintaining a common household.

The man's employer, fellow employees or friends pick him up at the woman's address.

The man gives the woman's address as his to his employer or on any document, such as car license, charge account, etc.

The family's telephone is listed in the man's name or is listed under the woman's first name and his last name.

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(2) *Repeated pregnancies by the same man to whom the mother is not married*

This is conclusive evidence a nonlegal marital union did exist. At the time of *application,* deprivation of parental support shall be considered as established only when there is definite evidence that the marital relationship has not existed for a period of at least six months, or there is positive evidence of a genuine separation (though for less than six months) *and* severe hardship exists. (See 2-742; applies to *applicants only.*)

If the nonlegal spouse continues to visit the home, it shall be presumed that the nonlegal marital union currently exists, unless there is acceptable evidence that his visits are to see the children he has acknowledged as his. In such a case, visits to the home should be made at hours indicating interest only in the children rather than continued interest in the mother.

(3) *When a legally married man living with his legal family is visiting*

If a man who is legally married and living with his legal family is visiting an ADC mother in her home or meeting her elsewhere, a nonlegal union must be presumed to exist.

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(4) *Other facts which are sufficient basis for questioning whether a nonlegal marital union exists*

Any one or more of the facts listed below is sufficient basis for questioning that a nonlegal marital union exists between the mother and a man to whom she is not married, and who is not her blood relative, UNLESS there is positive evidence that a nonlegal marital union does not exist.

The facts listed below as sufficient basis for questioning whether a nonlegal marital union exists are not necessarily of equal weight. When one or more of these facts exist, there may or may not be a logical, reasonable, acceptable explanation which along with other evidence may be sufficient to conclude that a nonlegal marital union does not exist. On the other hand, one fact alone or a combination of facts, when there is no such explanation, may be sufficient to conclude that a nonlegal marital union does exist. In any case, the decision shall be made on the basis of evaluation of all evidence: the fact or facts which cause question, the explanation of these facts and all other information relating to existence or nonexistence of a nonlegal marital union.

Regular contributions (cash or other) to the family by a man who does not make such contributions through court order.

Joint charge or bank account in the name of the children's mother and a man.

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Mother has privilege to charge to a man's account.

Purchase by man for delivery to the mother's address.

Arrangement by man for bills for unpaid balance on his installment purchase to be sent to the mother's address.

Any mail addressed to the man at the mother's address.

Joint purchases by the mother and a man.

Substantial gifts by a man to the family.

Payments by a man of rent and/or utilities for the family's home.

Payments or signing of lease by a man on home in which the family lives.

Frequent presence of a man in the home, especially at meal-times, unconventional hours or overnight.

Presence of a man's clothes or other personal possessions in the home.

Police records linking the mother and a man together.

A man has a key to the home.

A man has free access to the home.

Address of the family given by a man as his address to a third person, such as employer, license bureau (driver's or other), loan company, charge accounts, LSES, etc.

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Listing by a man of the mother and/or children as dependents for income tax purposes or on his insurance policy.

Frequent meetings of the mother and a man outside the home.

Statement of references that the mother and a man live as husband and wife when evaluation of the references' association with the family and their reasons for giving information establishes that it is acceptable.

D. *Making decision as to existence of a nonlegal marital union*

The decision as to whether a nonlegal marital union does or does not exist shall be based on evaluation of total information secured. When there is contradictory information, no one piece of evidence is sufficient for a decision, unless it is irrefutable. When there is contradiction between the client's statement and statements of others, the worker shall evaluate this against his observations and documentary evidence available.

9. *Michigan.* Manual of Policies and Procedures, Part B, Item 259(2) (April 1963).

In the case of an ADC parent living in stable union with a person to whom he or she is not married, or in which the parent has developed a continuing relationship not involving a common living plan, but the partner is exercising the role of parent to the children

or the rights of a spouse to the client, the following principles apply. The bureau's service plan is to be aimed at helping the client legalize the relationship or terminate it. The client is to be permitted 30 days in which to marry. If there is an impediment to marriage, this means 30 days in which to retain an attorney and file a bill of complaint for divorce preliminary to remarriage. The client must continue to cooperate by taking each legal step as it becomes possible, and no more than 6 months may be permitted to get the case on the court docket.

If legal action has *begun,* but is not completed, the client may continue to maintain a common living plan or social contacts with her partner when termination of the common living plan is not required by the court as a condition of legal action. In the case of illegal cohabitation of an applicant, the grant may not be opened unless the client has actually married the partner where there is no impediment to such marriage, or has begun steps toward legalization as discussed in the second paragraph on this page where an impediment exists, or the bureau is satisfied that the relationship has been terminated.

If legal action is not begun in 30 days, the client must terminate all social and financial contacts with the partner as a condition of eligibility. This does not prohibit payment of voluntary support for the children by their natural father, provided such payments are made by mail, and the bureau is kept fully informed.

Such situations discussed in the preceding paragraphs may raise questions of financial need, rather

than a question of suitability, and the bureau must be careful to distinguish between them. Refer to Item 319 for discussion of factors related to determination of need.

10. *Mississippi.* Manual of Policies and Procedures for Administration of Public Assistance, §D, p. 4512 (Sept. 1966).

In determining deprivation of parental support or care, the term "parents" means more than the child's own parents (natural parents). A child will not be considered deprived if he lives in the home with the persons listed below if they are able-bodied. These persons are:

1. His own (natural) parents.
2. His own parent and a stepfather or stepmother.
3. His own parent and a man or woman who lives in the home and maintains a marital relationship with the child's parent, even though he or she is is not married to the child's own parent, or is not the parent of any of the children in the home.
4. His own parent who maintains a continuing relationship with a man who does not live regularly in the home but who is regarded by the mother as her husband and by the children as their father. The man may be the father of one or more of the children, or of none of them, but assumes the father-role for them.

That is, the children look to the father-person for direction and discipline, for some financial support, and for the assumption of other duties which a father ordinarily performs in the home.

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11. *New Hampshire.* Manual of Policies pp. 47-48 (July 1966).

Deprivation of Parental Support or Care (RSA 167:6e). The law states that a child must be needy and deprived of parental support or care by reason of death, continued absence from the home, or physical or mental incapacity of a parent. Parent means either the father or the mother, regardless of whether the parent was the chief breadwinner or devoted one's self primarily to the care of the child. To insure the best possible home setting for the child, no unrelated male is permitted to live with an ADC family, nor shall an ADC family live in the home of an unrelated male as interpreted.

Unrelated Male Living with ADC Family. Under certain circumstances, later described, an unrelated male is not permitted to live with an ADC family, whether in their home or his. An unrelated male, within the meaning of this provision, is a man 18 years of age or older who is not related by blood to the ADC parent or other female payee-relative. "Living with" or "in the home of" means that an unrelated male actually lives as a member of the family in the same household with the ADC family, and the personal relationship is one or is likely to become one in which he assumes the role of a husband to the ADC mother or other female payee-relative without benefit of marriage.

Evidence that the unrelated male lives as a member of the family will be found in the apparent consistency and logic of physical evidence, such as whether he sleeps and eats there, has his belongings

there, uses the home as his address, etc., plus the evidence of personal relationship between him and the mother and children. A husband, from whom a wife is divorced or legally separated, is an unrelated male within the meaning of this provision if he actually resumes living in the ADC household on the basis described above without remarriage.

The intent of this policy is to try to prevent extra-marital living arrangements within ADC households which might result in a situation injurious to a child's physical, mental or moral well-being by leading to neglect on the part of the ADC parent; to impregnation of a parent or a child; to community criticism and censure; or to misuse of any ADC funds intended for support and care of children.

The policy is not intended to be used by the division to prevent a divorced or separated husband from exercising his legal rights to see his children. Limitations on such rights are a matter for settlement between parents, with the advice and help of the Caseworker, if they wish or for determination and decision by the court. Neither is it intended to prevent or prohibit normal social or employment relationships on the part of an ADC mother or other payee relative under socially acceptable conditions.

The husband in a married couple, with whom an ADC family shares a home in return for work, or on some other acceptable basis, is not an unrelated male within the intent of this policy.

There are situations in which an unrelated male might be in the same household with an ADC family without intent to violate this policy, and which might

not be harmful to children or unacceptable to the community. For example, a mature ADC parent earns part of the family's requirements as a housekeeper for an elderly, ill, unrelated male without a wife; or provides care in the ADC household for an elderly male boarder or patient; or a payee-relative, such as a grandmother earns her living by taking in boarders, some of whom may be male.

All such situations are carefully evaluated by the caseworker in terms of the intent of the policy, and his recommendation reviewed by the district supervisor for approval of eligibility with respect to this policy.

The ADC mother, or other payee-relative, when it is then decided that a violation of policy exists, has to make her choice between ADC and a continuation of a relationship which makes her ineligible for ADC. Assistance may be continued for the payroll period in which she is informed of the decision of ineligibility, but is discontinued thereafter, unless she chooses to comply with policy.

12. *New Mexico.* Dept. of Public Welfare Manual, §221.722 (Dec. 1964).

"'Parent' includes the father, putative father, mother and any man living with the mother and child with the *exclusion of the step-father* of the child. There must be affirmative proof that no parent, other than the applicant, is in the home." (Emphasis in Original.)

13. *North Carolina.* Public Assistance Manual of Policies and Procedures, §440 p. 4 (Jan. 1959).

In any case where it is found that the mother with a child or children born out of wedlock is maintaining a relationship—(which amounts to a "common law relationship")—with a man to whom she is not married, the county board of public welfare may find that the family is not eligible for aid to dependent children as long as this sort of a relationship continues, and if a payment is being made it may be terminated. If an application is rejected or a payment is terminated for this reason, the record should show the basis on which the county determined that the continuous relationship existed. There are many factors which may be taken into consideration before making a decision, such as, the woman and the man being seen together frequently, evidence of pregnancy, evidence that the man provides food or makes regular contributions toward support of the mother and children, or that he shows an interest in the mother and children that would be expected of a husband and father.

14. *Oklahoma.* Manual of Policy and Procedures, §336 (January 1964).*

* According to L. E. Rader, Oklahoma Director of Public Welfare, in a letter to Amicus Center dated Nov. 29, 1966, "The general policies as outlined in various sections of the State manual provide . . . that when deprivation is based on absence of a parent, the child is ineligible if there is also in the home a step-parent or person who has assumed the role of the parent's spouse and will, therefore, be considered to have assumed the role of a step-parent (without regard to legal status). An assumption of support or care by a step-parent or substitute parent is made when the person is actually making his home with the child or children and is accepting responsibility for the children the same as though he were a natural parent. In other words, the State's policy provides that a mother is ineligible for AFDC on the basis of deprivation at any point it is established conclusively that there is a step-parent or substitute parent in the home."

Children living with an own parent are eligible if there is also in the home a step-parent or person who has assumed the role of the parent's spouse and who will, therefore, be considered to have assumed the role of a step-parent (without regard to legal status). An assumption of support or care by a step-parent or substitute parent will be made when the person is actually making his home with the child or children, and is accepting responsibility for the children, the same as would a natural parent. Such support does not, however, relieve an own parent of his legal responsibility for his children and the worker will give all help possible in developing support for him.

15. *South Carolina.* Manual of Policies and Procedures in Public Assistance, Vol. IV, p. 44.

Common-Law Relationship

A man living in common-law relationship with a woman is responsible for the support and care of his and her children, regardless of whether or not he is married to another woman.

The general law of the State recognizes common-law marriages. Under this law the parties must be free to contract legal marriage, and there are certain other stipulations in the law. However, by regulation the State Department has adopted the policy of considering a man and woman who are living together as having established a common-law relationship and the man has the same responsibility for her and her children as though he were the legal husband. Where such common-law relationships are established, it will be necessary to clear all eligibility

factors applicable to legal parents before the children can be considered deprived of parental support.

Since agency definition of a common-law relationship is that a man and woman be living together, it will be necessary to have definite evidence that an applicant for AFDC actually has a man or woman living in the home with him or her before a common-law relationship can be established. As a matter of actual practice this situation usually relates to a mother with children applying for assistance in the care of her children. The question of common-law relationship therefore usually relates to whether or not she has a man living in the home with her who, under agency policy, would be held responsible for the support of the family. In instances where it is determined that the mother actually is living in common-law relationship with a man, it will be necessary to clear eligibility from the standpoint of the man's ability to work for the support of the family.

16. *Texas.* Dept. of Public Welfare Manual of Services, §§2640 (Oct. 1959) and 2642.60 (April 1963).

2640. . . .

The child must be deprived of parental support or care by reason of death, continued absence from the home, or physical or mental incapacity of a parent. By "parents" is meant the mother and father of the child, or the mother or father of the child and the individual with whom the mother or father is maintaining a marital relationship or maintainng a home together.

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2642.60 *Stability of Relationship*

Continuing pregnancies in the face of alleged lack of a father in the home is a strong indication that the designated relative has formed some stable relationship with a man who presumably functions as a father or a father substitute in the home to the children and an ADC grant may not be initiated or continued until it is established that no such arrangement is currently in effect.

In instances of a mother applying for an illegitimate child, an ADC grant cannot be placed until the mother has made an effort to bring the father into the office to discuss plans for the child.

When the mother of an ADC child is cohabiting with a man, the grant will be denied on the basis that the child is not deprived of parental support. A grant may not be initiated or reinstated until it is established that the relationship has been terminated. Normally, a six months' period of time accompanied with evaluation of all other pertinent facts should make possible a decision as to whether the relationship is broken.

17. *Utah.* Manual of Public Assistance Policies, §§4431.72 and 4431.8 (Sept. 1965).

4431.72 *Unmarried Adults Living Together in a Husband-Wife Relationship.* One basic eligibility factor in the AFDC program is the absence of parent or acting parent. In some cases an AFDC mother will cohabit in a husband-wife relationship, whether with a divorced former husband or someone else, without the

benefit of marriage and without informing the county office. Such a living arrangement shall be considered to be a violation of the absence factor of eligibility of a parent or acting parent, and may be justification for discontinuing public assistance, particularly when the information continues to be withheld from the caseworker. In some cases living arrangements of this nature may be difficult to establish. There are, however, some guidelines which can be used to justify a conclusion that a couple are living together, such as:

1. The man lists the woman and children as exemptions in his Federal and/or State income tax statements;
2. The man lists the wife and/or children as dependents at his place of employment;
3. The man and woman use the same address for the delivery of mail;
4. Both use the same telephone number;
5. Credit accounts are opened and used by both or either as husband and wife;
6. Statements of a landlord that both use the same apartment;
7. Statements of close neighbors that the couple live as man and wife.

If one or more of these listed situations are found to exist, this is a signal that a more intensive investigation must be made. If a

suspected husband-wife relationship is found to be reasonably supported by more than one type of evidence, the case shall be closed until the situation changes. In addition to closing the case, there may also have been an overpayment of assistance. If an overpayment has been made, it must be handled in accordance with section 4860.

4431.8 *Stable Unions of Unmarried Adults.* Some unions of unmarried adults are very stable, the couples have been together for long periods of time, children have been born, and the unit has functioned successfully as a family. Common law marriages of this nature are not recognized under Utah law, and as a result the children have no legal protection, even though other aspects of their family and social relationships seem to be reasonably normal. Such common law marriages are more frequent among certain minority groups, particularly since their customs and social patterns are different and the common law union is more or less normal and acceptable among these people. It is not intended that the regulations in subparagraph 4431.72 be used to disrupt stable unions of unmarried adults, and if necessary such families may be considered eligible for public assistance in the same manner as other eligible recipients.

On the other hand, because children of such unions do not have the legal protection pro-

vided by marriage, the same questions exist as in all cases of unmarried parents. The casework plan in these cases would be the same in the development of the social study and diagnosis of problems. However, services of the caseworker should be concentrated in the direction of helping the mother and father to realize how important marriage is, particularly for the protection of the children, and also for themselves while living in a society which considers marriage highly important.

18. *Virginia.* Public Assistance Manual, Vol. II, §203.14 (July 1962).

"When a man or woman continues to live in the home under circumstances that indicate that he or she maintains an extramarital relationship with a child's parent, the couple shall be deemed to have established a household accepting parental responsibilities, including financial support for all of the children."

APPENDIX D

States Which Define a Stepfather as a Parent for Purposes of ADC Eligibility But Impose No Duty of Support on Stepfathers by Virtue of the Marital Status Alone.[3]

1. *Arizona.* Family Services Manual, § 3-407.4A. *Magma Copper Co.* v. *Aldrete,* 70 Ariz. 48, 216 P.2d 392 (1950); *Franklin* v. *Franklin,* 75 Ariz. 151, 253 P.2d 337 (1957).

2. *Arkansas.* Dept. of Public Welfare Manual, § 2813. *Kempson* v. *Goss,* 69 Ark. 451, 64 S.W. 224 (1901); *Miller* v. *U.S.,* 123 F.2d 715 (8th Cir. 1942), *supp. by* 124 F.2d 849 (8th Cir. 1942), *supp. by* 126 F.2d 462 (8th Cir. 1942), *rev. on other grounds,* 317 U.S. 192, *rehearing denied,* 317 U.S. 713; *Dodd* v. *U.S.,* 76 F. Supp. 991 (W.D. Ark. 1948).

3. *District of Columbia.* Handbook of Public Assistance Policies and Procedures, Pt. 4.5(IV)(c). *Harrington* v. *Harrington,* 145 A.2d 121 (D.C. Mun. App. 1958).

4. *Georgia.* Manual of Public Assistance Administration, Part III, § 5, p. 6. *Wood* v. *Wood,* 166 Ga. 519, 193 S.E. 770 (1928).

5. *Idaho.* Letter to *amicus* Center from Howard H. Smith, Director of Social Services (dated Dec. 7, 1966).

6. *Indiana.* Public Assistance Manual, III-C-2. *Hollingsworth* v. *Swedenborg,* 49 Ind. 378 (1875).

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[3] This Appendix was compiled in the same manner as Appendix C and is subject to the same limitations.

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7. *Louisiana.* Manual of Policies and Procedures, § 2-740(A).

8. *Maine.* Public Assistance Policy Manual, Ch. II, § C, p. 2. *Inhabitants of Guilford* v. *Inhabitants of Monson,* 139 Me. 261, 185 A. 517 (1936); *Bunker* v. *Moins,* 139 Me. 231, 22 A.2d 734 (1942).

9. *Mississippi.* Manual of Policies and Procedures, § D, p. 4512.

9a. *New Hampshire.* Letter to *amicus* Center from George E. Murphy, Director, Division of Welfare, dated Nov. 30, 1967.

10. *North Carolina.* Public Assistance Manual of Policies and Procedures, § 440, *Dodson* v. *McAdams,* 96 NC 149, 2 S.E. 453 (1887).

11. *Oklahoma.* Manual of Policies and Procedures, § 336, as interpreted in Letter from L. E. Rader, reprinted in App. C *supra,* at p. 33a. Okla. Stat. Ann., Title 10, § 15; *Barker* v. *Barker,* 25 Okla. 48, 105 Pac. 347 (1909); *Daniel* v. *Tolon,* 53 Okla. 666, 157 Pac. 756 (1916).

12. *Oregon.* State Public Welfare Commission Staff Manual, § 2145.16. *State* v. *Langford,* 90 Or. 251, 176 Pac. 197 (1918); *Sargent* v. *Foland,* 104 Or. 296, 207 Pac. 349 (1922).

13. *Pennsylvania.* Dept. of Public Welfare Manual, § 3122.4. *Young* v. *Hipple,* 273 Pa. 439, 117 A. 185, 25 A.L.R. 1541 (1922); *Commonwealth ex rel. Stack* v. *Stack,* 141 Pa. Super. 147, 15 A.2d 76 (1940).

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14. *South Carolina.* Manual of Policies and Procedures, Vol. IV, p. 39.

15. *Texas.* Dept. of Public Welfare Manual of Services, § 2640. *Boyle* v. *Tolly,* 134 S.W.2d 500 (Civ. App. 1939); *Drescher* v. *Morgan,* 251 S.W.2d 173 (Civ. App. 1952).

SUPREME COURT OF THE UNITED STATES

No. 949.—October Term, 1967.

Reuben K. King, Commissioner of the State Dept. of Pensions and Security, State of Alabama, et al., Appellants, *v.* Sylvester Smith et al.

On Appeal From the United States District Court for the Middle District of Alabama.

[June 17, 1968.]

Mr. Chief Justice Warren delivered the opinion of the Court.

Alabama, together with every other State, Puerto Rico, the Virgin Islands, the District of Columbia, and Guam, participates in the Federal Government's Aid to Families With Dependent Children Program (AFDC), which was established by the Social Security Act of 1935.[1] 49 Stat. 620 (1935), as amended, 42 U. S. C. §§ 301–1394. This appeal presents the question whether a regulation of the Alabama Department of Pensions and Security, employed in that Department's administration of the State's federally funded AFDC program, is consistent with Subchapter IV of the Social Security Act, 42 U. S. C. §§ 601–609, and with the Equal Protection Clause of the Fourteenth Amendment. At issue is the validity of Alabama's so-called "substitute father" regulation which denies AFDC payments to the children of a mother who

[1] The program was originally known as "Aid to Dependent Children." 49 Stat. 627 (1935). Alabama's program still bears this title. In the 1962 amendments to the Act, however, the name of the program was changed to "Aid and Services to Needy Families With Children," 76 Stat. 185 (1962). Throughout this opinion, the program will be referred to as "Aid to Families With Dependent Children," or AFDC.

"cohabits" in or outside her home with any single or married able-bodied man. Appellees brought this class action against appellants, officers, and members of the Alabama Board of Pensions and Security, in the United States District Court for the Middle District of Alabama, under 42 U. S. C. § 1983,[2] seeking declaratory and injunctive relief. A properly convened three-judge District Court[3] correctly adjudicated the merits of the controversy without requiring appellees to exhaust state administrative remedies,[4] and found the regulation to be

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[2] "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[3] Since appellees sought injunctive relief restraining the appellant state officials from the enforcement, operation and execution of a statewide regulation on the ground of its unconstitutionality, the three-judge court was properly convened pursuant to 28 U. S. C. § 2281. See *Alabama Public Service Commission* v. *Southern R. Co.*, 341 U. S. 341, 343, n. 3 (1951). See also *Florida Lime Growers* v. *Jacobsen*, 362 U. S. 73 (1960); *Allen* v. *Grand Central Aircraft Co.*, 347 U. S. 535 (1954). Jurisdiction was conferred on the court by 28 U. S. C. §§ 1343 (3) and (4). The decision we announce today holds Alabama's substitute father regulation invalid as inconsistent with Subchapter IV of the Social Security Act. We intimate no views as to whether and under what circumstances suits challenging state AFDC provisions only on the ground that they are inconsistent with the federal statute may be brought in federal courts. See generally Note, Federal Judicial Review of State Welfare Practices, 67 Col. L. Rev. 84 (1967).

[4] We reject appellants' argument that appellees were required to exhaust their administrative remedies prior to bringing this action. Pursuant to the requirement of the Social Security Act that States must grant AFDC applicants who are denied aid "an opportunity for a fair hearing before the State agency," 42 U. S. C. § 602 (a) (4), Alabama provides for administrative review of such denials. Ala-

inconsistent with the Social Security Act and the Equal Protection Clause.[5] We noted probable jurisdiction, 390 U. S. 903 (1968), and for reasons which will appear, we affirm without reaching the constitutional issue.

I.

The AFDC program is one of three major categorical public assistance programs established by the Social Security Act of 1935. See U. S. Advisory Commission Report on Intergovernmental Relations, Statutory and Administrative Control Associated with Federal Grants for Public Assistance 5–7 (1964) (hereafter cited as Advisory Commission Report). The category singled out for welfare assistance by AFDC is the "dependent child," who is defined in § 406 of the Act, 49 Stat. 629 (1935), as amended, 42 U. S. C. § 606 (a), as an age-qualified[6] "needy child . . . who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with" any one of several listed relatives. Under this provision, and insofar as relevant

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bama Manual for Administration of Public Assistance, Part I, § II, Parts V–5 to V–12. Decisions of this Court, however, establish that a plaintiff in an action brought under the Civil Rights Act, 42 U. S. C. § 1983, 28 U. S. C. § 1343, is not required to exhaust administrative remedies, where the constitutional challenge is sufficiently substantial, as here, to require the convening of a three-judge court. *Damico* v. *California*, 389 U. S. 416 (1967). See also *McNeese* v. *Board of Education*, 373 U. S. 668 (1963); *Monroe* v. *Pape*, 365 U. S. 167, 180–183 (1961). For a general discussion of review in the federal courts of state welfare practices, see Note, Federal Judicial Review of State Welfare Practices, 67 Col. L. Rev. 84 (1967).

[5] *Smith* v. *King*, 277 F. Supp. 31 (D. C. M. D. Ala. 1967).

[6] A needy child, to qualify for the AFDC assistance, must be under the age of 18, or under the age of 21 and a student, as defined by HEW. 79 Stat. 422 (1965), 42 U. S. C. §§ 606 (a)(2)(A) and (B).

here, aid can be granted only if "a parent" of the needy child is continually absent from the home.[7] Alabama considers a man who qualifies as a "substitute father" under its regulation to be a nonabsent parent within the federal statute. The State therefore denies aid to an otherwise eligible needy child on the basis that his substitute parent is not absent from the home.

Under the Alabama regulation, an "able-bodied man, married or single, is considered a substitute father of *all the children of the applicant* . . . mother" in three different situations: (1) if "he lives in the home with the child's natural or adoptive mother for the purpose of cohabitation"; or (2) if "he visits [the home] frequently for the purpose of cohabiting with the child's natural or adoptive mother"; or (3) if "he does not frequent the home but cohabits with the child's natural or adoptive mother elsewhere."[8] Whether the substitute father is actually the father of the children is irrelevant. It is also irrelevant whether he is legally obligated to support the children, and whether he does in fact contribute to their support. What is determinative is simply whether he "cohabits" with the mother.[9]

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[7] The States are also permitted to consider as dependent children needy children who have an unemployed parent, as is discussed in n. 13, *infra*, and needy children without a parent who have under certain circumstances been placed in foster homes or child care institutions. See 42 U. S. C. §§ 607, 608.

[8] Alabama Manual for Administration of Public Assistance, Pt. I, c. II, § VI.

[9] Under the regulation, when "there appears to be a substitute father," the mother bears the burden of proving that she has discontinued her relationship with the man before her AFDC assistance will be resumed. The mother's claim of discontinuance must be "corroborated by at least two acceptable references in a position to know. Examples of acceptable references are: law-enforcement officials; ministers; neighbors; grocers." There is no hearing prior to the termination of aid, but an applicant denied aid may secure state administrative review.

The testimony below by officials responsible for the administration of Alabama's AFDC program establishes that "cohabitation," as used in the regulation, means essentially that the man and woman have "frequent" or "continuing" sexual relations. With regard to how frequent or continual these relations must be, the testimony is conflicting. One state official testified that the regulation applied only if the parties had sex at least once a week; another thought once every three months would suffice; and still another believed once every six months sufficient. The regulation itself provides that pregnancy or a baby under six months of age is prima facie evidence of a substitute father.

Between June 1964, when Alabama's substitute father regulation became effective, and January 1967, the total number of AFDC recipients in the State declined by about 20,000 persons, and the number of children recipients by about 16,000, or 22%. As applied in this case, the regulation has caused the termination of all AFDC payments to the appellees, Mrs. Sylvester Smith and her four minor children.

Mrs. Smith and her four children, ages 14, 12, 11, and 9, reside in Dallas County, Alabama. For several years prior to October 1, 1966, they had received aid under the AFDC program. By notice dated October 11, 1966, they were removed from the list of persons eligible to receive such aid. This action was taken by the Dallas County welfare authorities pursuant to the substitute father regulation, on the ground that a Mr. Williams came to her home on weekends and had sexual relations with her.

Three of Mrs. Smith's children have not received parental support or care from a father since their natural father's death in 1955. The fourth child's father left home in 1963, and the child has not received the support or care of his father since then. All the children live in the home of their mother, and except for the substitute

father regulation are eligible for aid. The family is not receiving any other type of public assistance, and has been living, since the termination of AFDC payments, on Mrs. Smith's salary of between $16 and $20 per week which she earns working from 3:30 a. m. to 12 noon as a cook and waitress.

Mr. Williams, the alleged "substitute father" of Mrs. Smith's children, has nine children of his own and lives with his wife and family, all of whom are dependent upon him for support. Mr. Williams is not the father of any of Mrs. Smith's children. He is not legally obligated, under Alabama law, to support any of Mrs. Smith's children.[10] Further, he is not willing or able to support the Smith children, and does not in fact support them. His wife is required to work to help support the Williams household.

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[10] Under Alabama statutes, a legal duty of support is imposed only upon a "parent," who is defined as (1) a "natural legal parent," (2) one who has "legally acquired the custody of" the child, and (3) "the father of such child, . . . though born out of lawful wedlock." 34 Ala. Code §§ 89, 90; 27 Ala. Code §§ 12 (1), 12 (4). *Law* v. *State*, 238 Ala. 428, 191 So. 803 (1939). The Alabama Courts have interpreted the statute to impose a legal duty of support upon one who has "publicly acknowledged or treated the child as his own, in a manner to indicate his voluntary assumption of parenthood" irrespective of whether the alleged parent is in fact the child's real father. *Law* v. *State*, 238 Ala. 428, 191 So. 803 (1939). It seems clear, however, that even a stepfather who is not the child's natural parent and has not acquired legal custody of him is under an obligation of support only if he has made this "voluntary assumption of parenthood." See *Chandler* v. *Whatley*, 238 Ala. 206, 189 So. 751 (1939); *Englehardt* v. *Yung's Estate*, 76 Ala. 534, 540 (1884); *Nichols* v. *State*, 32 Ala. App. 574, 28 So. 2d 422 (1946). Further, the Alabama Supreme Court has emphasized that the alleged father's intention to support the child, requisite to a finding of voluntary assumption of parenthood, "should not be slightly nor hastily inferred . . . ." *Englehardt* v. *Yung's Estate*, 76 Ala. 534, 540 (1884).

II.

The AFDC program is based on a scheme of cooperative federalism. See generally Advisory Commission Report, *supra,* at 1–59. It is financed largely by the Federal Government, on a matching fund basis, and is administered by the States. States are not required to participate in the program, but those which desire to take advantage of the substantial federal funds available for distribution to needy children are required to submit an AFDC plan for the approval of the Secretary of Health, Education, and Welfare (HEW). 49 Stat. 627 (1935), 42 U. S. C. §§ 601, 602, 603, and 604. See Advisory Commission Report, *supra,* at 21–23.[11] The plan must conform with several requirements of the Social Security Act and with rules and regulations promulgated by HEW. 49 Stat. 627 (1935), as amended, 42 U. S. C. § 602. See also HEW, Handbook of Public Assistance Administration, Pt. IV, §§ 2200, 2300 (1967) (hereafter cited as Handbook).[12]

One of the statutory requirements is that "aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals . . . ." 64 Stat. 550 (1950), 42 U. S. C. § 602 (a)(9). As noted above, § 406 (a) of the Act defines a "dependent child"

[11] Alabama's substitute father regulation has been neither approved nor disapproved by HEW. There has, however, been considerable correspondence between the Alabama and federal authorities concerning the regulation, as is discussed in n. 23, *infra.*

[12] Unless HEW approves the plan, federal funds will not be made available for its implementation. 42 U. S. C. § 601. Further, HEW may entirely or partially terminate federal payments if "in the administration of the [state] plan there is a failure to comply substantially with any provision required by section 602 (a) of this title to be included in the plan." 42 U. S. C. § 604, as amended, § 245, 81 Stat. 918 (1968). See generally Advisory Commission Report, *supra,* at 61–80.

as one who has been deprived of "parental" support or care by reason of the death, continued absence or incapacity of a "parent." 42 U. S. C. § 606 (a). In combination, these two provisions of the Act clearly require participating States to furnish aid to families with children who have a parent absent from the home, if such families are in other respects eligible. See also Handbook, Pt. IV, § 2200 (b)(4).

The State argues that its substitute father regulation simply defines who is a nonabsent "parent" under § 406 (a) of the Social Security Act. 42 U. S. C. § 606 (a). The State submits that the regulation is a legitimate way of allocating its limited resources available for AFDC assistance, in that it reduces the caseload of its social workers and provides increased benefits to those still eligible for assistance. Two State interests are asserted in support of the allocation of AFDC assistance achieved by the regulation: first, it discourages illicit sexual relationships and illegitimate births; second, it puts families in which there is an informal "marital" relationship on a par with those in which there is an ordinary marital relationship, because families of the latter sort are not eligible for AFDC assistance.[13]

We think it well to note at the outset what is *not* involved in this case. There is no question that States have considerable latitude in allocating their AFDC resources, since each State is free to set its own standard of

[13] Commencing in 1961, federal matching funds have been made available under the AFDC subchapter of the Social Security Act for a State which grants assistance to needy children who have two able-bodied parents living in the home, but who have been "deprived of parental support or care by reason of the unemployment . . . of a parent." 42 U. S. C. § 607. Participation in this program for aid to dependent children of unemployed parents is not obligatory on the States, and the Court has been advised that only 21 States participate. Alabama does not participate.

need[14] and to determine the level of benefits by the amount of funds it devotes to the program.[15] See Advisory Commission Report, *supra*, at 30–59. Further, there is no question that regular and actual contributions to a needy child, including contributions from the kind of person Alabama calls a substitute father, can be taken into account in determining whether the child is needy.[16]

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[14] HEW's Handbook, in Pt. IV, § 3120, provides that: "A needy individual . . . [under AFDC] is one who does not have income and resources sufficient to assure economic security, *the standard of which must be defined by each State*. The act recognizes that *the standard so defined depends upon the conditions existing in each State*." (Emphasis added.) The legislative history of the Act also makes clear that the States have power to determine who is "needy" for purposes of AFDC. Thus the Reports of the House Ways and Means Committee and Senate Finance Committee make clear that the States are free to impose eligibility requirements as to "means." H. R. Rep. No. 615, 74th Cong., 1st Sess., 24 (1935); S. Rep. No. 628, 74th Cong., 1st Sess., 36 (1935). The floor debates corroborate that this was Congress' intent. For example, Representative Vinson explained that "need is to be determined under the State law." 79 Cong. Rec. 5471 (1935).

[15] The rather complicated formula for federal funding is contained in 42 U. S. C. § 603. The level of benefits is within the State's discretion, but the Federal Government's contribution is a varying percentage of the total AFDC expenditures within each State. See H. R. Rep. No. 615, 74th Cong., 1st Sess., 12, 24 (1935); S. Rep. No. 628, 74th Cong., 1st Sess., 4, 36 (1935). The benefit levels vary greatly from State to State. For example, in May 1967, the average payment to a family under AFDC was about $224 in New Jersey, $221 in New York, $39 in Mississippi, $20 in Puerto Rico, and $53 in Alabama. Hearings on H. R. 12080 before the Senate Committee on Finance, 90th Cong., 1st Sess., pt. 1, 296–297 (1967). See generally, Harvith, Federal Equal Protection and Welfare Assistance, 31 Albany L. Rev. 210, 226–227 (1967).

[16] Indeed, the Act requires that in determining need the state agency "shall . . . take into consideration any other income and resources of any child or relative claiming aid to families with dependent children. . . ." 42 U. S. C. § 602 (7). Regulations of HEW, which clearly comport with the statute, restrict the resources

In other words, if by reason of such a man's contribution, the child is not in financial need, the child would be ineligible for AFDC assistance without regard to the substitute father rule. The appellees here, however, meet Alabama's need requirements; their alleged substitute father makes no contribution to their support; and they have been denied assistance solely on the basis of the substitute father regulation. Further, the regulation itself is unrelated to need, because the actual financial situation of the family is irrelevant in determining the existence of a substitute father.

Also not involved in this case is the question of Alabama's general power to deal with conduct it regards as immoral and with the problem of illegitimacy. This appeal raises only the question whether the State may deal with these problems in the manner that it has here—by flatly denying AFDC assistance to otherwise eligible dependent children.

Alabama's argument based on its interests in discouraging immorality and illegitimacy would have been quite relevant at one time in the history of the AFDC program. However, subsequent developments clearly establish that these state interests are not presently legitimate justifications for AFDC disqualification. Insofar as this or any similar regulation is based on the State's asserted interests in discouraging illicit sexual behavior and illegitimacy, it plainly conflicts with federal law and policy.

A significant characteristic of public welfare programs during the last half of the 19th century in this country was their preference for the "worthy" poor. Some poor

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which are to be taken into account under § 602 to those "that are, in fact, available to an applicant or recipient for current use on a regular basis. . . ." This regulation properly excludes from consideration resources which are merely assumed to be available to the needy individual. Handbook, Pt. IV, § 3131 (7). See also §§ 3120, 3123, 3124, 3131 (10), and 3131 (11).

persons were thought worthy of public assistance, and others were thought unworthy because of their supposed incapacity for "moral regeneration." Leyendecker, Problems and Policy in Public Assistance, at 45–57 (1955); Wedemeyer and Moore, The American Welfare System, 54 Calif. L. Rev. 326, 327–328 (1966). This worthy person concept characterized the mothers' pension welfare programs,[17] which were the precursors of AFDC. See Bell, Aid to Dependent Children, at 3–19 (1965). Benefits under the mothers' pension programs, accordingly, were customarily restricted to widows who were considered morally fit. See Bell, *supra*, at 7; Leyendecker, *supra*, at 53.

In this social context it is not surprising that both the House and Senate Committee Reports on the Social Security Act of 1935 indicate that States participating in AFDC were free to impose eligibility requirements relating to the "moral character" of applicants. H. R. Rep. No. 615, 74th Cong., 1st Sess., 24 (1935); S. Rep. No. 628, 74th Cong., 1st Sess., 36 (1935). See also 79 Cong. Rec. 5679 (statement by Representative Jenkins) (1935). During the following years, many state AFDC plans included provisions making ineligible for assistance dependent children not living in "suitable homes." See Bell, *supra*, at 29–136 (1965). As applied, these suitable home provisions frequently disqualified children on the basis of the alleged immoral behavior of their mothers. *Ibid.*[18]

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[17] For a discussion of the mothers' pension welfare programs, see J. Brown, Public Relief 1929–1939, at 26–32 (1940).

[18] Bell quotes a case record, for example, where a mother whose conduct with men displeased a social worker was required, as a condition of continued assistance, to sign an affidavit stating that, "I . . . do hereby promise and agree that until such time as the following agreement is rescinded, I will not have any male caller coming to my home nor meeting me elsewhere under improper conditions." Bell, *supra*, at 48.

In the 1940's, suitable home provisions came under increasing attack. Critics argued, for example, that such disqualification provisions undermined the mother's confidence and authority, thereby promoting continued dependency; that they forced destitute mothers into increased immorality as a means of earning money; that they were habitually used to disguise systematic racial discrimination; and that they senselessly punished impoverished children on the basis of their mothers' behavior, while inconsistently permitting them to remain in the alleged unsuitable homes. In 1945, the predecessor of HEW produced a state letter arguing against suitable home provisions and recommending their abolition. See Bell, *supra*, at 51. Although 15 States abolished their provisions during the following decade, numerous other States retained them. *Ibid.*

In the 1950's, matters became further complicated by pressures in numerous States to disqualify illegitimate children from AFDC assistance. Attempts were made in at least 18 States to enact laws excluding children on the basis of their own or their siblings' birth status. See Bell, *supra*, at 72–73. All but three attempts failed to pass the State legislatures, and two of the three successful bills were vetoed by the governors of the States involved. *Ibid.* In 1960, the federal agency strongly disapproved of illegitimacy disqualifications. See Bell, *supra*, at 73–74.

Nonetheless, in 1960, Louisiana enacted legislation requiring, as a condition precedent for AFDC eligibility, that the home of a dependent child be "suitable," and specifying that any home in which an illegitimate child had been born subsequent to the receipt of public assistance would be considered unsuitable. Louisiana Acts, No. 251 (1960). In the summer of 1960, approximately 23,000 children were dropped from Louisiana's AFDC rolls. Bell, *supra*, at 137. In disapproving this leg-

islation, then Secretary of Health, Education, and Welfare Flemming issued what is now known as the Flemming Ruling, stating that as of July 1, 1961,

> *"a state plan . . . may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable, while the child continues to reside in the home.* Assistance will therefore be continued during the time efforts are being made either to improve the home conditions or to make arrangements for the child elsewhere." [19]

Congress quickly approved the Flemming Ruling, while extending until September 1, 1962, the time for state compliance. 75 Stat. 77 (1961), as amended, 42 U. S. C. § 604 (b).[20] At the same time, Congress acted to im-

[19] State Letter No. 452, Bureau of Public Assistance, Social Security Administration, Department of Health, Education, and Welfare. (Emphasis added.)

[20] The Senate Finance Committee Report explained the purpose of the amendment as follows:

"The Department of Health, Education, and Welfare in January 1961 advised the State agencies administering title IV of the Social Security Act—aid to dependent children—that after June 30, 1961, grants to States would not be available if the State terminated assistance to children in a home determined to be unsuitable unless the State made other provision for the children affected. Section 4 of your committee's bill would provide that the requirement made by the Department of Health, Education, and Welfare would not become effective in States which took the type of action described, as the result of a State statute requiring such action, before the 61st day after the end of the regular session of such State's legislature, such regular session beginning following the enactment of this section. One or two of the States affected by the Department's ruling do not have regular sessions of their legislatures in 1961 and would accordingly be safeguarded against the withholding of funds until such time as their legislatures have had regular sessions and have had an opportunity to modify the State statutes involved." S. Rep. No. 165, 87th Cong., 1st Sess., 6 (1961).

plement the ruling by providing, on a temporary basis, that dependent children could receive AFDC assistance if they were placed in foster homes after a court determination that their former homes were, as the Senate Report stated, "unsuitable because of the immoral or negligent behavior of the parent." S. Rep. No. 165, 87th Cong., 1st Sess., 6 (1961). See 75 Stat. 76 (1961), as amended, 42 U. S. C. § 608.[21]

In 1962, Congress made permanent the provision for AFDC assistance to children placed in foster homes and extended such coverage to include children placed in child-care institutions. 76 Stat. 180, 185, 193, 196, 207 (1962), 42 U. S. C. § 608. See S. Rep. No. 1589, 87th Cong., 2d Sess., 13 (1962). At the same time, Congress modified the Flemming Ruling by amending § 404 (b) of the Act. As amended, the statute permits States to disqualify from AFDC aid children who live in unsuitable homes, provided they are granted other "adequate care and assistance." 76 Stat. 189, 42 U. S. C. § 604 (b) (1962). See S. Rep. No. 1589, 87th Cong., 2d Sess., 14 (1962).

Thus, under the 1961 and 1962 amendments to the Social Security Act, the States are permitted to remove a child from a home that is judicially determined to be so unsuitable as to "be contrary to the welfare of such child." 42 U. S. C. § 608 (a)(1). The States are also permitted to terminate AFDC assistance to a child living in an unsuitable home, if they provide other adequate care and assistance for the child under a general welfare program. 42 U. S. C. § 604 (b). See S. Rep. No. 1589, 87th Cong., 2d Sess., 14 (1962). The statutory approval

[21] For a discussion by then Secretary of HEW Ribicoff and now Secretary Cohen concerning the 1961 amendments in relation to the Flemming Ruling, see Hearing on H. R. 10032 before the House Committee on Ways and Means, 87th Cong., 2d Sess., 294–297, 305–307 (1962).

of the Flemming Ruling, however, precludes the States from otherwise denying AFDC assistance to dependent children on the basis of their mother's alleged immorality or to discourage illegitimate births.

The most recent congressional amendments to the Social Security Act further corroborate that federal public welfare policy now rests on a basis considerably more sophisticated and enlightened than the "worthy person" concept of earlier times. State plans are now required to provide for a rehabilitative program of improving and correcting unsuitable homes, 42 U. S. C. § 602 (a), as amended, § 201 (a)(1)(B)(14), 81 Stat. 877 (1968); 42 U. S. C. § 606, as amended, § 201 (f), 81 Stat. 880 (1968); to provide voluntary family planning services for the purpose of reducing illegitimate births, 42 U. S. C. § 602 (a), as amended, § 201 (a)(1)(C)(15), 81 Stat. 878 (1968); and to provide a program for establishing the paternity of illegitimate children and securing support for them, 42 U. S. C. § 602 (a), as amended, § 201 (a)(1)(C)(17), 81 Stat. 878 (1968).

In sum, Congress has determined that immorality and illegitimacy should be dealt with through rehabilitative measures rather than measures that punish dependent children, and that protection of such children is the paramount goal of AFDC.[22] In light of the Flemming

[22] The new emphasis on rehabilitative services began with the Kennedy Administration. President Kennedy, in his 1962 welfare message to the Congress, observed that communities that had attempted to cut down welfare expenditures through arbitrary cutbacks had met with little success, but that "communities which have tried the rehabilitative road—the road I have recommended today—have demonstrated what can be done with creative . . . programs of prevention and social rehabilitation." See Hearings on S. 10606 before the Senate Committee on Finance, 87th Cong., 2d Sess., 109 (1962). Some insight into the mood of the Congress that approved the Flemming Ruling in 1961 with respect to this matter is provided by an exchange during the debates on the floor of the House. Representative Gross inquired of Representative

Ruling and the 1961, 1962, and 1968 amendments to the Social Security Act, it is simply inconceivable, as HEW has recognized,[23] that Alabama is free to discourage im-

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Mills, Chairman of the House Ways and Means Committee, concerning the AFDC status of illegitimate children. After a brief discussion in which Representative Mills explained that he was looking into the problem of illegitimacy, Representative Hoffman asked whether Representative Gross was taking the position that "these innocent children, no matter what the circumstances under which they were born, are to be deprived of the necessities of life." Representative Gross replied, "Oh, no; not at all," and agreed with Representative Hoffman's subsequent statement that the proper approach would be to attempt to prevent illegitimate births. 107 Cong. Rec. 3766 (1961). See generally Bell, *supra*, at 152–173.

[23] Both before and after the Flemming Ruling, the Alabama and federal authorities corresponded with considerable frequency concerning the State's suitable home and substitute father policies. In April 1959, HEW by letter stated that "suitable home" legislation then being proposed by Alabama raised substantial questions of conformity with the Social Security Act, because it seemed to deprive children of AFDC assistance on the basis of illegitimate births in the family. In May 1959 and again in August 1959 new suitable home policies were submitted and were rejected by HEW. Negotiations continued, and in June 1961, HEW responded that the newest legislative proposal was inconsistent with Congress' statutory approval of the Flemming Ruling because (1) assistance would be denied to children on the basis that their homes were unsuitable but they would be permitted to remain in the homes; and (2) a home could be found unsuitable simply on the basis of the child's birth status. Still later, on June 12, 1963, HEW rejected another Alabama suitable home provision on the ground that it provided for denial of AFDC assistance while the child remained in the home without providing for other "adequate care and assistance," as required by the 1962 amendment to the Federal Act. The evidence below establishes that soon after appellant King's appointment as Commissioner, he undertook a study that led to the adoption of the substitute father regulation. When this regulation was submitted to HEW, it responded that the regulation did not conform with 42 U. S. C. § 604 (b) for the same reasons as its predecessor legislative proposals. Additional correspondence ensued, but HEW never approved the regulation.

morality and illegitimacy by the device of absolute disqualification of needy children. Alabama may deal with these problems by several different methods under the Social Security Act. But the method it has chosen plainly conflicts with the Act.

III.

Alabama's second justification for its substitute father regulation is that "there is a public interest in a State not undertaking the payment of these funds to families who because of their living arrangements would be in the same situation as if the parents were married, except for the marriage." In other words, the State argues that since in Alabama the needy children of married couples are not eligible for AFDC aid so long as their father is in the home, it is only fair that children of a mother who cohabits with a man not her husband and not their father be treated similarly. The difficulty with this argument is that it fails to take account of the circumstance that children of fathers living in the home are in a very different position from children of mothers who cohabit with men not their fathers: the child's father has a legal duty to support him, while the unrelated substitute father, at least in Alabama, does not. We believe Congress intended the term "parent" in § 406 (a) of the Act, 42 U. S. C. § 606 (a), to include only those persons with a legal duty of support.

The Social Security Act of 1935 was part of a broad legislative program to counteract the depression. Congress was deeply concerned with the dire straits in which all needy children in the Nation then found themselves.[24] In agreement with the President's Commission on Eco-

[24] See H. R. Rep. No. 615, 74th Cong., 1st Sess., 9–10 (1935) (characterizing children as "the most tragic victims of the depression"); S. Rep. No. 628, 74th Cong., 1st Sess., 16–17 (1935) (declaring that the "heart of any program for social security must be the child").

nomic Security, the House Committee Report declared, "the core of any social plan must be the child." H. R. Rep. No. 615, 74th Cong., 1st Sess., 10 (1935). The AFDC program, however, was not designed to aid all needy children. The plight of most children was caused simply by the unemployment of their fathers. With respect to these children, Congress planned that "the work relief program and . . . the revival of private industry" would provide employment for their fathers. S. Rep. No. 628, 74th Cong., 1st Sess., 17 (1935). As the Senate Committee Report stated: "Many of the children included in relief families present no other problem than that of providing work for the breadwinner of the family." *Ibid.* Implicit in this statement is the assumption that children would in fact be supported by the family "breadwinner."

The AFDC program was designed to meet a need unmet by programs providing employment for breadwinners. It was designed to protect what the House Report characterized as "one clearly distinguishable group of children." H. R. Rep. No. 615, 74th Cong., 1st Sess., 10 (1935). This group was comprised of children in families without a "breadwinner," "wage earner," or "father," as the repeated use of these terms throughout the Report of the President's Committee,[25] Committee Hearings[26] and Reports[27] and the floor debates[28] makes perfectly clear. To describe the sort of breadwinner that it had in mind, Congress employed the word

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[25] See H. R. Doc. No. 81, 74th Cong., 1st Sess., 4–5, 29–30 (1935).

[26] Hearings on H. R. 4120 before the House Committee on Ways and Means, 74th Cong., 1st Sess., 158–161, 166, 174, 262–264 (1935); Hearings on S. 1130 before the Senate Committee on Finance, 74th Cong., 1st Sess., 102, 181, 337–338, 647, 654 (1935).

[27] See H. R. Rep. No. 615, 74th Cong., 1st Sess., 10 (1935); S. Rep. No. 628, 74th Cong., 1st Sess., 17–18 (1935).

[28] See 79 Cong. Rec. 5468, 5476, 5491, 5786, 5861 (1935).

"parent." 49 Stat. 629 (1939), as amended, 42 U. S. C. § 606 (a). A child would be eligible for assistance if his parent was deceased, incapacitated or continually absent.

The question for decision here is whether Congress could have intended that a man was to be regarded as a child's parent so as to deprive the child of AFDC eligibility despite the circumstances: (1) that the man did not in fact support the child; and (2) that he was not legally obligated to support the child. The State correctly observes that the fact that the man in question does not actually support the child cannot be determinative, because a natural father at home may fail actually to support his child but his presence will still render the child ineligible for assistance. On the question whether the man must be legally obligated to provide support before he can be regarded as the child's parent, the State has no such cogent answer. We think the answer is quite clear: Congress must have meant by the term "parent" an individual who owed to the child a state-imposed legal duty of support.

It is clear, as we have noted, that Congress expected "breadwinners" who secured employment would support their children. This congressional expectation is most reasonably explained on the basis that the kind of breadwinner Congress had in mind was one who was legally obligated to support his children. We think it beyond reason to believe that Congress would have considered that providing employment for the paramour of a deserted mother would benefit the mother's children whom he was not obligated to support.

By a parity of reasoning, we think that Congress must have intended that the children in such a situation remain eligible for AFDC assistance notwithstanding their mother's impropriety. AFDC was intended to provide economic security for children whom Congress could not reasonably expect would be provided for by simply secur-

ing employment for family breadwinners.[29] We think it apparent that neither Congress nor any reasonable person would believe that providing employment for some man who is under no legal duty to support a child would in any way provide meaningful economic security for that child.

A contrary view would require us to assume that Congress, at the same time that it intended to provide programs for the economic security and protection of *all* children, also intended arbitrarily to leave one class of destitute children entirely without meaningful protection. Children who are told, as Alabama has told these appellees, to look for their food to a man who is not in the least obliged to support them are without meaningful protection. Such an interpretation of congressional intent would be most unreasonable, and we decline to adopt it.

Our interpretation of the term "parent" in § 406 (a) is strongly supported by the way the term is used in other sections of the Act. Section 402 (a)(10) requires that, effective July 1, 1952, a state plan must:

> "provide for prompt notice to appropriate law-enforcement officials of the furnishing of aid to families with dependent children in respect of a child who has been deserted or abandoned by a *parent*." 64 Stat. 550 (1950), 42 U. S. C. § 602 (a)(10). (Emphasis added.)

The "parent" whom this provision requires to be reported to law enforcement officials is surely the same "parent" whose desertion makes a child eligible for AFDC assistance in the first place. And Congress obviously did not intend that a so-called "parent" who has no legal

[29] As the Senate Committee Report stated, AFDC was intended to provide for children who "will not be benefited through work programs or the revival of industry." S. Rep. No. 628, 74th Cong., 1st Sess., 17 (1935).

duties of support be referred to law enforcement officials (as Alabama's own welfare regulations recognize),[30] for the very purpose of such referrals is to institute non-support proceedings. See Handbook, Pt. IV, §§ 8100–8149.[31] Whatever doubt there might have been over this proposition has been completely dispelled by the 1968 amendments to the Social Security Act, which provide that the States must develop a program:

> "(i) in the case of a child born out of wedlock who is receiving aid to families with dependent children, to establish the *paternity of such child and secure support for him*, and
>
> "(ii) in the case of any child receiving such aid who has been deserted or abandoned *by his parent, to secure support for such child from such parent (or from any other person legally liable for such support)* . . . ." 42 U. S. C. § 602 (a), as amended, § 201 (a)(1)(C)(17), 81 Stat. 878 (1968). (Emphasis added.)

Another provision in the 1968 amendments requires the States, effective January 1, 1969, to report to HEW any *"parent . . . against whom an order for the support and*

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[30] Alabama's own welfare regulations state: "Report parents who are legally responsible under Alabama law. These are the *natural* or *adoptive* parents of a child. A natural parent includes the father of a child born out of wedlock, if paternity has been *legally* established: It does not apply to a stepparent." Alabama Manual for Administration of Public Assistance, Pt. I, c. II, p. 36.

[31] HEW requires States to give notice of desertion only with respect to persons who, "under State laws, are defined as parents . . . for the support of minor children, and against whom legal action may be taken under such laws for desertion or abandonment." Handbook, Pt. IV, § 8131 (2). And, as discussed in n. 10, *supra*, the alleged substitute father in the case at bar is not legally obligated by Alabama law to support the appellee children. See also Handbook, Pt. IV, § 3412 (4) (providing that a stepparent not required by state law to support a child need not be considered the child's parent).

maintenance of such [dependent] child or children has been issued by" a court, if such parent is not making the required support payments. 42 U. S. C. § 602 (a), as amended, § 211 (a)(21), 81 Stat. 896 (1968). (Emphasis added.) Still another amendment requires the States to cooperate with HEW in locating any *parent* against whom a support petition has been filed in another State, and in securing compliance with any support order issued by another State, 42 U. S. C. § 602 (a), as amended, § 211 (a)(22), 81 Stat. 897 (1968).

The pattern of this legislation could not be clearer. Every effort is to be made to locate and secure support payments from persons legally obligated to support a deserted child.[32] The underlying policy and consistency in statutory interpretation dictate that the "parent" referred to in these statutory provisions is the same parent as that in § 406 (a). The provisions seek to secure parental support in lieu of AFDC support for dependent children. Such parental support can be secured only where the parent is under a state-imposed legal duty to support the child. Children with alleged substitute parents who owe them no duty of support are entirely unprotected by these provisions. We think that these provisions corroborate the intent of Congress that the only kind of "parent," under § 406 (a), whose presence in the home would provide adequate economic protection for a dependent child is one who is legally obligated to support him. Consequently, if Alabama believes it necessary that it be able to disqualify a child on the basis of a man who is not under such a duty of support, its arguments should be addressed to Congress and not this Court.[33]

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[32] Another 1968 amendment provides for the cooperation of the Internal Revenue Service in locating missing "parents." § 410, 81 Stat. 897 (1968).

[33] We intimate no views whatsoever on the constitutionality of any such hypothetical legislative proposal.

IV.

Alabama's substitute father regulation, as written and as applied in this case, requires the disqualification of otherwise eligible dependent children if their mother "cohabits" with a man who is not obligated by Alabama law to support the children. The regulation is therefore invalid because it defines "parent" in a manner that is inconsistent with § 406 (a) of the Social Security Act. 42 U. S. C. § 606 (a).[34] In denying AFDC assistance to appellees on the basis of this invalid regulation, Alabama has breached its federally imposed obligation to furnish "aid to families with dependent children . . . with reasonable promptness to all eligible individuals . . . ." 42 U. S. C. § 602 (a)(9). Our conclusion makes unnecessary consideration of appellees' equal-protection claim, upon which we intimate no views.

We think it well, in concluding, to emphasize that no legitimate interest of the State of Alabama is defeated by the decision we announce today. The State's interest in discouraging illicit sexual behavior and illegitimacy may be protected by other means, subject to constitutional limitations, including state participation in AFDC rehabilitative programs. Its interest in economically allocating its limited AFDC resources may be protected by its undisputed power to set the level of benefits and

[34] There is of course no question that the Federal Government, unless barred by some controlling constitutional prohibition, may impose the terms and conditions upon which its money allotments to the States shall be disbursed, and that any state law or regulation inconsistent with such federal terms and conditions is to that extent invalid. See *Ivanhoe Irrigation District* v. *McCracken*, 357 U. S. 275, 295 (1958); *Oklahoma* v. *Civil Service Commission*, 330 U. S. 127, 143 (1947). It is equally clear that to the extent HEW has approved any so-called "man-in-the-house" provision which conflicts with § 406 (a) of the Social Security Act, 42 U. S. C. § 606 (a), such approval is inconsistent with the controlling federal statute.

the standard of need, and by its taking into account in determining whether a child is needy all actual and regular contributions to his support.

All responsible governmental agencies in the Nation today recognize the enormity and pervasiveness of social ills caused by poverty. The causes of and cures for poverty are currently the subject of much debate. We hold today only that Congress has made at least this one determination: that destitute children who are legally fatherless cannot be flatly denied federally funded assistance on the transparent fiction that they have a substitute father.

Affirmed.

SUPREME COURT OF THE UNITED STATES

No. 940.—October Term, 1967.

Reuben K. King, Commissioner of the State Dept. of Pensions and Security, State of Alabama, et al., Appellants, *v.* Sylvester Smith et al.	On Appeal From the United States District Court for the Middle District of Alabama.

[June 17, 1968.]

Mr. Justice Douglas, concurring.

The Court follows the statutory route in reaching the result that I reach on constitutional grounds. It is, of course, traditional that our disposition of cases should, if possible, be on statutory rather than constitutional grounds, unless problems of statutory construction are insurmountable. *E. g., Harmon* v. *Brucker,* 355 U. S. 579, 581.

We do have, however, in this case a long-standing administrative construction that approves state AFDC plans containing a man-in-the-house provision.[1] Certainly that early administrative construction, which so far as I can ascertain has been a consistent one, is entitled to great weight. *E. g., Power Reactor Co.* v. *Electricians,* 367 U. S. 396, 408.

The Department of Health, Education, and Welfare balked at the Alabama provision only because it reached all nonmarital sexual relations of the mother, not just nonmarital relations on a regular basis in the mother's house.[2] Since I cannot distinguish between the two categories, I reach the constitutional question.[3]

[1] See the Appendix to this opinion.

[2] See discussion by the District Court in this case, *Smith* v. *King,* 277 F. Supp. 31, 36–38.

[3] Moreover, the Court's decision based on statutory construction does not completely resolve the question presented. The District

The Alabama regulation describes three situations in which needy children, otherwise eligible for relief, are to be denied financial assistance. In none of these is the child to blame. The disqualification of the family, and hence the needy child, turns upon the "sin" of the mother.[4]

First, if a man not married to the mother and not the father of the children lives in her home for purposes of cohabitating with her, the children are cast into the outer darkness.

Second, if a man who is not married to the mother and is not the father of the children visits her home for the purpose of cohabitating with her, the needy children meet the same fate.

Third, if a man not married to the mother and not the father of the children cohabits with her outside the home, then the needy children are likewise denied relief. In each of these three situations the needy family is wholly cut off from AFDC assistance without considering whether the mother's paramour is in fact aiding the family, is financially able to do so, or is legally required to do so. Since there is "sin," the paramour's wealth or indigency is irrelevant.

Court, having found a violation of the Fourteenth Amendment, issued an unconditional injunction. Under the Court's opinion, however, Alabama is free to revive enforcement of its substitute parent regulations at any time it chooses to reject federal funds made available under the Social Security Act.

[4] Whether the mother alone could constitutionally be cut off from assistance because of her "sin" (compare *Glona* v. *American Insurance Co., ante*, at ——) is a question not presented. The aid is to the needy family, and without removing the children from their mother because of her unfitness—action not contemplated here, as far as the record indicates—there is no existing means by which Alabama can assist the children while ensuring that the mother does not benefit.

In other words, Alabama regulations are aimed at punishing mothers who have nonmarital sexual relations. The economic need of the children, their age, their other means of support, are all irrelevant. The standard is the so-called immorality of the mother.[5]

The other day in a comparable situation we held that the Equal Protection Clause of the Fourteenth Amendment barred discrimination against illegitimate children. We held that they cannot be denied a cause of action because they were conceived in "sin," that the making of such a disqualification was an invidious discrimination. *Levy* v. *Louisiana, ante,* at —. I would think precisely the same result should be reached here. I would say that the immorality of the mother has no rational connection with the need of her children under any welfare program.

I would affirm this judgment for the reasons more fully elaborated in the opinion of the three-judge District Court. *Smith* v. *King,* 277 F. Supp. 31, 38–40.

[5] This penalizing the children for the sins of their mother is reminiscent of the archaic corruption of the blood, a form of bill of attainder, which I have discussed recently in a different context. *George Campbell Painting Corp.* v. *Reid, ante,* at — (dissenting opinion).

APPENDIX.

States which, according to HEW, currently have "man-in-the-home" policies in their plans for the Federal-State program of Aid to Families with Dependent Children.

State and effective date of approved State policy.	*Status of subsequent revisions submitted for approval and incorporation in the State's plan.*
Alabama..... Dec. 1962	Revision dated July 1964 and all subsequent revisions including an Administrative Letter of Nov. 13, 1967, are being held pending approval.
Arizona..... Nov. 1963	Latest revision incorporated May 24, 1967.
Arkansas..... Aug. 1959	
District of Columbia. Jan. 1955	A revision dated 12/27/60 was incorporated into the approved plan on Jan. 13, 1961; however, when the District's plan manual system was revised and resubmitted as the State's plan, in June 1964, the "man-in-the-home" provisions were not accepted and together with subsequent revisions are still pending approval.
Florida..... July 1959	
Georgia..... April 1952	
Indiana.....	A "man-in-the-home" provision, not previously in the State's plan, was submitted in September 1964, to be effective August 1964, and is still being held pending approval.
Kentucky..... June 1962	Revised State plan pages including these provisions were approved for incorporation in 1964 and 1965.
Louisiana..... Jan. 1, 1961	Revisions submitted in 1962 and 1964 are still being held pending approval.
Michigan..... July 1955	Revisions dated 4/2/63 were approved 6/4/63.

State and effective date of approved State policy.	*Status of subsequent revisions submitted for approval and incorporation in the State's plan.*
Mississippi..... Feb. 1954	Revisions submitted in 1966 and subsequently are being held pending approval.
Missouri..... Oct. 1951	
New Hampshire. 1948	
New Mexico.... April 1964	A revised State plan page including this provision was approved for incorporation 6/16/67.
North Carolina.. Sept. 1955	
Oklahoma..... May 1963	A revised State plan page including this provision was approved for incorporation March 1964 and a correction of a clerical error which would have changed the sense of the provision was made and accepted February 1967.
South Carolina.. Oct. 1956	
Tennessee..... June 1955	Three revisions, beginning in 1964, are being held pending approval.
Texas..... Nov. 1959	
Virginia..... July 1956	A revision dated July 1962 is still held pending approval.